

SINGLE-USE BAG ORDINANCE

SECTION 1. PURPOSE

The production and use of single-use carryout bags has significant impacts on the environment of all coastal communities, including, but not limited to; contributing to the potential death of marine animals through ingestion and entanglement, contributing to pollution of the land environment, creating a burden to our solid waste collection and recycling facility, clogging our storm drainage systems, deforestation, and increased greenhouse gas emission, and the use of millions of barrels of crude oil nationally for their manufacture. In addition;

1. Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from stores, as those businesses are defined in this ordinance; and
2. Curbside recycling of single-use carryout plastic bags is not currently permitted in the Town of York recycling program and location-limited recycling options and voluntary efforts to control use of single-use carryout plastic bags, has had minimal effect to date; and
3. The Town of York strives to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the Town's residents and visitors; and
4. Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags dramatically reduces the use of those types of bags; and
5. It is in the best interests of citizens of York to reduce the cost to the Town of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

The purpose of this legislation is to minimize the usage of single-use carryout bags in the Town of York, Maine.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the Town's home rule authority granted under Article VIII-A of the Maine Constitution, and Title 30-A MRSA §3001.

SECTION 3. APPLICABILITY

This Ordinance shall apply to all Stores as defined in subsections 4.4 and 4.5, operating within the Town of York, Maine.

SECTION 4. DEFINITIONS

As used in this Ordinance the following terms have the following meanings:

- 4.1. **SINGLE USE CARRYOUT:** Single-use Carryout Bag means a bag other than a Reusable bag provided at the checkout stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists for prescription drugs.
- 4.2. **PRODUCE BAG OR PRODUCT BAG:** The terms produce bag or product bag mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items.
- 4.3. **REUSABLE BAG:** A bag that is:
 - (a) Designed and manufactured to withstand repeated uses over a period of time,
 - (b) Machine washable or made from a material that can be cleaned and disinfected regularly,
 - (c) At least 2.2 mil thick if made from plastic,
 - (d) Has a minimum lifetime of 75 uses, and
 - (e) Has the capability of carrying a minimum of 18 pounds.
- 4.4. **STORE:** The term Store means any of the following retail establishments located within the Town of York:
 - (a) A full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
 - (b) A drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

- 4.5 STORE does not mean businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be incidental if such sales comprise no more than 2 percent of the business's gross sales in the Town as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

SECTION 5. REGULATION OF SINGLE-USE CARRYOUT BAGS

- 5.1 No Store shall provide a Single-Use Carryout Bag to a Customer at the checkout stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.
- 5.2 A Store may make available for sale to a Customer a Single-Use Carryout Bag for a minimum charge of five cents (\$0.05) per bag.
- 5.3 All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.
- 5.4 All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.
- 5.5 Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.
- 5.6 No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection 5.2.

SECTION 6. RECORD KEEPING AND INSPECTION

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag for a minimum period of 3 years from the date of purchase and sale which record shall be available for inspection at no cost to the Town of York during regular business hours by any Town employee authorized to enforce this Ordinance. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the Town of York shall be a violation of this Ordinance.

SECTION 7. ADMINISTRATION AND ENFORCEMENT

- 7.1 The Code Enforcement Officer (CEO) shall have the authority to administer and enforce this Ordinance.
- 7.2 Each Store as defined in subsections 4.4 and 4.5 above, located in the Town of York, shall comply with this Ordinance.

- (a) If it is determined that a violation has occurred, the CEO shall issue a written warning to the Store for the initial violation.
- (b) If an additional violation has occurred after a written warning has been issued, the CEO shall issue a written notice of violation and shall impose a penalty against the Store.
- (c) The penalty associated with each written notice of violation shall be:
 - 1) \$250 for the first offense, or
 - 2) \$500 for the second and all subsequent offenses. To be considered a second or subsequent offense, the violation must occur within one year of the most recent prior violation.
- (d) No more than one penalty shall be imposed upon a Store within a 7 day period.
- (e) A Store shall have 15 days following receipt of a written notice of violation to pay the penalty.

7.3 Any decision, action, or inaction pertaining to this Ordinance may be appealed to the York County Superior Court. Any appeal must be filed within 30 days of the decision or action being appealed.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect 6 months following the date of adoption to allow stores the opportunity to make any necessary adjustments to bring operations into compliance with the law.

SECTION 9. SEVERABILITY

Should any portion of this Ordinance be held by the courts to be invalid, this shall not affect the validity of remaining portions of this Ordinance.