

Single-Use Plastic Carry Out Bag Ordinance



Town of York, Maine

Date of Current Revision: November 3, 2015

Date of Prior Revisions:

Date of Original Enactment: November 3, 2015

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to adopt this Ordinance: November 3, 2015.

Certified by the Town Clerk: Mary Anne Spomawski on 11/5/15
(signature) (date)

SECTION 1. PURPOSE AND INTENT

The production and use of single-use plastic carryout bags have significant impacts on the marine and land environment of all coastal communities that outweigh their usefulness to the public. These impacts include, but are not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land and marine environment; imposing an unnecessary burden on our solid waste management; clogging our storm drainage systems; and requiring the use of non-renewable fossil fuels for manufacture.

Voluntary efforts to control the use of single-use plastic carryout bags have had minimal effect to date.

The Town of York strives to conserve resources, reduce greenhouse gas emissions, waste and litter and to protect the quality of life for the Town's residents and visitors.

The purpose of this ordinance is to eliminate the usage of single-use carry out plastic bags by all retail and grocery stores in the Town of York.

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 M.R.S. §3001.

SECTION 3. DEFINITIONS

Customer: Any person obtaining food or merchandise at or from a Retail Establishment.

Recyclable Paper Bag: Paper bags that are accepted for recycling by the Town of York's curbside recycling program.

Retail Establishment: Any commercial enterprise engaged in the sale of food or merchandise including but not limited to grocery and convenience stores, markets, pharmacies, restaurants, take-out food purveyors, seasonal and temporary businesses and other merchandise retailers. Nonprofit and religious organizations are not considered Retail Establishments.

Reusable Bag: A bag with handles that is specifically designed and manufactured to withstand repeated uses over a period of time, is made from a material that can be cleaned and disinfected regularly and is at least 3 mils thick if made from plastic.

Single-Use Plastic Carryout Bag: Plastic bag with a thickness of less than 3 mils (3/1000 of an inch) with an integral handle provided at check out for the purpose of transporting food or merchandise out of the Retail Establishment.

SECTION 4. STANDARDS

Every Retail Establishment located in the Town of York shall comply with this Ordinance.

- A. No Single-Use Plastic Carryout Bag shall be distributed, either with or without charge, to a Customer, at any Retail Establishment located in the Town of York.

- B. Customers are encouraged to bring their own Reusable Bags to Retail Establishments, who may choose to give customers a rebate for such.
- C. Retail Establishments may provide Customers with Recyclable Paper Bags or Reusable Bags, with or without a charge, as they so desire.

SECTION 5. EXCEPTIONS

- A. Single use plastic bags, typically without handles, used to contain dry cleaning, newspapers, produce, meat, lobsters, fish, bulk foods, and wet items are permissible.
- B. Nonprofit organizations or religious institutions are exempt from the provisions of this Ordinance.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

- A. The Code Enforcement Officer (CEO) shall have the authority to administer and enforce this Ordinance.
- B. If it is determined that a violation has occurred, the CEO shall issue a written warning to the Retail Establishment for the initial violation. If an additional violation occurs after a written warning has been issued, the CEO shall issue a written notice of violation and shall impose a penalty against the Retail Establishment. The penalty associated with each written notice of violation shall be:
 - 1. \$50 for the first offense, or
 - 2. \$100 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.
- C. No more than one penalty shall be imposed upon a Retail Establishment within a 7-day period.
- D. A Retail Establishment shall have 15 days following receipt of a written notice of violation to pay the penalty.

SECTION 7. APPEALS

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 4 months following the date of adoption by the voters to allow Retail Establishments time to make 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.

SECTION 7. EXISTING

- A. Existing laws, rules, regulations, orders, or other provisions of law shall remain in effect unless otherwise provided in this Ordinance.
- B. Municipal organizations or agencies shall continue to exercise their authority under the provisions of this Ordinance.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

- A. The Code Enforcement Officer (CEO) shall have the authority to administer and enforce this Ordinance.
- B. It is determined that a violation has occurred and the CEO shall issue a written warning to the Retail Establishment for the first violation. If an additional violation occurs after a written warning has been issued, the CEO shall issue a written notice of violation and shall prosecute a complaint against the Retail Establishment. The penalty assessed with each written notice of violation shall be:
 - 1. \$50 for the first offense or
 - 2. \$100 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.
- C. No more than one penalty shall be imposed upon a Retail Establishment within a 30-day period.
- D. A Retail Establishment shall have 15 days following receipt of a written notice of violation to pay the penalty.

SECTION 5. APPEALS

Any decision or action of the Town 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 4 months following the date of adoption by the voters to allow Retail Establishments time to make necessary adjustments to bring operations into compliance with the law.