



SUSAN M. MOONEY

CITY OF SOUTH PORTLAND

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JAMES H. GAILEY  
City Manager  
SALLY J. DAGGETT  
City Clerk

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At Large  
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At Large  
THOMAS E. BLAKE

ORDINANCE #3-15/16

**THE COUNCIL** of the City of South Portland hereby ordains that Chapter 9, "Garbage and Refuse" of the "Code of Ordinances of the City of South Portland, Maine," be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

**SOUTH PORTLAND CODE OF ORDINANCES**

Chapter 9

**GARBAGE AND REFUSE**

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**ARTICLE VI . SINGLE USE BAGS**

**Sec. 9-745 . Findings; purpose.**

WHEREAS, the City Town Council believes it has a duty to protect the natural environment and the health of its residents and visitors;

WHEREAS, the use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation;

WHEREAS, the use of single-use plastic bags has significant impacts on the marine and land environment of all coastal communities, including, but not limited to, contributing to the potential death of fish, fowl, and wildlife through ingestion and entanglement and altering marine ecosystems by smothering plants;

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WHEREAS, despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled;

WHEREAS, numerous studies have documented the prevalence of single-use carryout bags contributing to pollution of the land environment, creating a burden to solid waste collection and recycling facilities, and clogging storm drainage systems;

WHEREAS, the CityTown and its taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage infrastructure, amount of litter, and wildlife;

WHEREAS, the CityTown, through its policies, programs, and ordinances, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy, landfill) and supports efforts to achieve CityTown and State recycling goals;

WHEREAS, from an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping;

WHEREAS, the CityTown Council aims 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 CityTown's residents and visitors;

WHEREAS, evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as defined in this Article;

WHEREAS, studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags;

WHEREAS, the CityTown Council believes that residents and visitors should use reusable bags and that the prohibition on free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

WHEREAS, it is in the best interests of the health, safety and welfare of residents and visitors of South PortlandCape Elizabeth to reduce the cost to the CityTown of solid waste disposal, and to protect the environment and natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Article.

**Sec. 9-746. Definitions.**

As used in this Article, the following terms shall have the following meanings:

*Single-use Carryout Bag.* Single-use Carryout Bag means a bag other than a Reusable Bag provided at the check 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 to contain prescription drugs.

*Produce Bag or Product Bag.* The terms *Produce Bag* or *Product Bag* means 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.

*Reusable Bag* means a bag that:

- (a) is designed and manufactured to withstand repeated uses over a period of time;
- (b) is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) is at least 2.25 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.

*Store.* The term *Store* means any of the following retail establishments located within the CityTown:

- (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; or
- (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.

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 two percent (2%) of the business' gross sales in the CityTown as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

#### **Sec. 9-747. Single-Use Carryout Bag.**

- (a) No Store shall provide a Single-Use Carryout Bag to a customer at the check 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.
- (b) A Store may make available for sale to a customer a Single-Use Carryout Bag for a minimum charge of five cents (\$0.05).
- (c) All monies collected by a Store for Single-Use Carryout Bags under this Article may be used by the Store for any lawful purpose.

(d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.

(e) 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 sales receipt.

(f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).

**Sec. 9-748. Exemptions.**

A Store shall be exempt from the provisions of this Article in a situation deemed by the CityTown Manager, in his/her sole discretion, to be an emergency for the immediate preservation of the public health, safety or welfare.

**Sec. 9-749. 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 three (3) years from the date of purchase and sale, which records shall be available for inspection at no cost to the City during regular business hours by any CityTown employee authorized to enforce this Article. 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 CityTown shall be a violation of this Article.

**Sec. 9-750. Violations and enforcement.**

The CityTown Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the CityTown Manager or his/her designee(s) determine(s) that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be civil violations punishable by fines as follows:

(a) A fine not exceeding \$250 for the first violation in a one-year period;

(b) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

**Sec. 9-751. Effective Date.**

The provisions of this Article shall become effective on March 1, 2016\_\_\_\_\_.

**Sec. 9-752. Severability.**

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

Fiscal Note: Less than \$1000

Date: September 9, 2015