

SINGLE USE BAGS

Article #

Sec. #. Purpose. The purpose of this ordinance is to reduce the distribution of single-use carryout bags by stores in the Town of Cape Elizabeth, and to incentivize the use of reusable bags by residents of the Town.

Sec. #. Definitions.

- (a) **Single-use Carryout Bag.** Shall mean 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.
- (b) **Produce Bag or Product Bag.** Shall mean any bag without handles used exclusively to carry produce, meats, seafood, 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.
- (c) **Reusable Bag.** Shall mean a bag that:
 - i. is designed and manufactured to withstand repeated uses over a period of time;
 - ii. is machine washable or made from a material that can be cleaned and disinfected regularly;
 - iii. is at least 2.25 millimeters thick if made from plastic;
 - iv. has a minimum lifetime of 75 uses; and
 - v. has the capability of carrying a minimum of 18 pounds.
- (d) **Store.** Shall mean any of the following retail establishments located within the Town:
 - i. a full-line, self-service market located in a permanent building that sells at retail a line of staple foodstuffs, meats, seafood, produce, household supplies, dairy products or other perishable items; or
 - ii. 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 Town as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

Sec. #. 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 ordinance 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. #. Exemptions. A Store is exempt from the provisions of this ordinance in a situation deemed by the Town Manager, in his/her sole discretion, to be an emergency for the immediate preservation of the public health, safety or welfare.

Sec. #. Record Keeping. Every business subject to the provisions of this ordinance shall report annually to the Town Manager or his/her designee the number of single-use carryout bags of each type (plastic and paper) that have been sold.

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

Violations of this ordinance 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. #. Effective Date. The provisions of this ordinance shall become effective...

Sec. #. Severability. If any part or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, 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 ordinance are severable.