

SINGLE USE CARRYOUT BAG ORDINANCE

SECTION 1. PURPOSE:

It is in the best interests of the citizens of and visitors to the Town of Southwest Harbor to protect the environment and natural resources of the Town and the State of Maine and the bodies of water within and adjacent to the Town by: prohibiting the use and distribution of plastic single use carryout bags, discouraging the distribution of disposable paper single use carryout shopping bags, and encouraging the use of reusable shopping bags.

Therefore, the purpose of this Ordinance is to limit the use of single use carryout bags to reduce litter and to reduce the environmental impact caused by the use of single use plastic bags.

SECTION 2. AUTHORITY:

This Ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A MRS Chapter 141, and the general power of municipalities to enact police power ordinances.

SECTION 3. DEFINITIONS:

CUSTOMER: An individual who purchases or accepts food, beverage or merchandise for use or consumption.

PRODUCT AND PRODUCE BAGS: Bags without handles used exclusively to carry produce, meats, seafood and bulk items, for the purpose of containing those items or preventing direct contact between those items and other items. These bags are used to carry items to the point of sale inside a Store or to prevent such items from coming into direct contact with other purchased items.

REUSABLE BAG: A bag specifically designed and manufactured for the repeated use of carrying food, beverage or merchandise, whether made of cloth, fiber or plastic; is machine washable or made from a material that can be cleaned and disinfected regularly; has the capability of carrying 18 pounds or more; and, if plastic, is at least 4.0 mil thick.

SINGLE-USE CARRYOUT BAG: A bag other than a Reusable Bag, as defined above, 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 Store. The term Single Use Carry-Out Bag includes compostable and biodegradable bags, including paper bags, but does not include Reusable Bags, Produce Bags, Product Bags required for special handling, or bags provided by pharmacists to contain prescription drugs.

STORE: Any commercial enterprise engaged in the sale of food and merchandise, including – but not limited to – grocery and convenient stores, markets, pharmacies, restaurants, take out food, temporary and seasonal businesses, and other merchant retailers. Nonprofit and religious organizations are not considered retailers.

SECTION 4. RESTRICTION ON SINGLE-USE CARRYOUT BAGS

Except as provided below, no Store as defined above shall provide or sell a Single-Use Carryout Bag to a customer at a checkout stand, cash register, point-of-sale or other point of departure for the purpose of transporting any goods or merchandise out of the establishment.

SECTION 5. PERMITTED BAGS

A. A Store may, at its discretion, make a Reusable Bag or a paper bag available to the customer either for free or for a fee at the checkout stand, cash register, point of sale or other point of departure for the purposes of transporting food or merchandise out of the establishment. Businesses shall keep any proceeds from the sale of Reusable Bags and paper bags at point of sale.

B. Customers are encouraged to bring Reusable Bags to Stores, which may choose to provide a rebate for such.

C. Customers may use bags of any type that they bring into the Store for their own use.

SECTION 6. EXEMPTIONS

A Store shall be exempt from the provisions of this Ordinance in a situation deemed to be an emergency by the Town Select Board.

SECTION 7. VIOLATIONS AND ENFORCEMENT

A. The Town Manager or his/her designee(s) shall have the primary responsibility of the enforcement of this Ordinance. If the Town Manager or his/her designee(s) determines that a violation of the Ordinance has occurred, a written warning notice shall be issued to the Store. If an additional violation occurs after a written warning has been issued, the Town Manager or his/her designee shall issue a written Notice of Violation (NOV) and shall impose a penalty as set forth below.

B. Violations of this Ordinance shall be punishable by fines as follows:

1. A fine not exceeding \$100 for the first written NOV violation in a one-year period.
2. A fine not exceeding \$200 for the second and each subsequent written NOV in a one-year period. Each day that a violation occurs shall be considered a subsequent violation.
3. Fines are payable within 15 days of receipt of written notice of violation.

SECTION 8. APPEALS

Any decision, action, or inaction pertaining to this Ordinance may be appealed to the Maine Superior Court (Hancock County) within 30 days of the decision, action or inaction.

SECTION 9. SEVERABILITY

In the event any portion of this Ordinance shall be found to be invalid by a court of competent jurisdiction, the remaining portions of the Ordinance shall remain in effect.

SECTION 10. EFFECTIVE DATE

The provisions of this ordinance shall become effective on April 22, 2019.