

Chapter 55-Single Use Carry-Out Bags

Section 55-101

It is in the best interest of the citizens and visitors of Freeport to protect the environment and natural resources of Maine by: discouraging the distribution and use of disposable, single-use, carryout paper shopping bags, prohibition of single-use carry out PLASTIC bags and encouraging the use of reusable shopping bags in Stores, as defined below.

Section 55-102 Findings:

Single-use carryout bags have a negative impact on the environment and wildlife; and

It is important to keep the Town of Freeport as litter-free as possible to enhance the quality of life for Freeport's residents and visitors; and

Freeport is a coastal community with a vested interest in protecting the ocean environment from plastic debris; and

The petition group believes that the best alternative to single-use carryout bags is the use of reusable bags for shopping, which is accomplished through prohibiting the free distribution of single-use carryout bags by Stores, as defined in this Section; and

Authority:

This proposed Ordinance to be adopted pursuant to the Town's home rule authority pursuant to 30-A §3001 *et seq.*

Section 55-103 Definitions:

Single-Use Carryout Bag. Single-Use Carryout Bag means a bag other than a Reusable Bag, as defined below, 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, including paper 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* mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that meets all of the following criteria:

- (a) 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) Has a minimum lifetime of 75 uses; and

(d) Has the capability of carrying a minimum of 18 pounds.

Store. The term *Store* means any of the following retail establishments located within the Town of Freeport engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale:

- (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.

"Store" does not mean:

- 1) Restaurants; or
- 2) Businesses at which food sales 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 of Freeport as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

Section 55-104 Single-Use Carryout Bag:

(a) No Store, as defined above, shall provide a Single use Carryout Bag made of plastic that does not meet all the criteria as a Reusable Bag, as defined above, 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.

(b) A Store may make available for sale to a customer a Single-Use PAPER Carryout Bag for a mandatory, uniform charge of five cents (\$0.05) per bag.

(c) All monies collected by a Store for Single-Use Carryout Bags under this Section 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 PAPER Bags.

(e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout PAPER Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.

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

(g) Nothing in this Section shall be construed to prohibit customers from using bags of any type that the customer brings to the Store for their own use or from carrying away from the Store goods that are not placed in a bag provided by the Store.

(h) Carry-out bags for Take-Out meals from a restaurant or food ready to eat carried out from a business that prepares meals on-site for sale to the public are exempt from the definitions of a single use bag.

Section 55-105 Exemptions:

A Store shall be exempt from the provisions of this Ordinance, in a situation deemed by the Town Manager to be an emergency for the immediate preservation of the public health or safety.

Section 55-106 Record Keeping and Inspection:

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout PAPER Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the Town 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 shall be a violation of this Ordinance.

Section 55-107 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) determines 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 punishable by fines as follows:

- A fine not exceeding \$250 for the first violation in a one-year period;
- A fine not exceeding \$500 for the second and each subsequent violation in a one-year period. Each day that a violation occurs will be considered a subsequent violation.

Section 55-108 Effective Date:

The provisions of this ordinance shall become effective on September 12th, 2016.

Section 55-109 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.