

Single Use Plastic Carryout Bags and Foam Food Containers Ban Ordinance

PURPOSE

It is in the best interests of the Town of Newcastle to protect the environment and our local fishing, shellfish and tourist economy by prohibiting the distribution and use of single-use plastic carryout bags, and the distribution and use of expanded and extruded polystyrene foam food containers and to encourage use of other locally recyclable and biodegradable alternatives.

The provisions in this Ordinance will:

1. Reduce litter of single-use plastic shopping bags and expanded or extruded polystyrene foam food containers
2. Reduce taxpayer expense to clean-up or manage plastic litter
3. Reduce the impact of plastic litter on our local tourism and fishing economy

AUTHORITY

This Section is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Ordinance VIII, Part2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. seq, as well as the general powers of municipalities to enact ordinances.

DEFINITIONS

Single-Use Plastic Carryout Bag means a plastic bag, other than a reusable bag, provided at the check stand, cash register, point of sale or other point of departure or within a commercial use for purposes of transporting all food and all non-food related merchandise out of the Store. The term Single-Use Plastic Carryout Bag does not include reusable bags, produce bags or product bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry produce, meats, or other food items of merchandise to the point of sale inside a store or to prevent such items from coming in direct contact with other items.

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

- (a) Designed and manufactured to withstand 125 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 four mils thick, if made from plastic; and;
- (d) Has the capability of carrying a minimum of 18 pounds.

Expanded or Extruded Polystyrene Foam Container means any container that is made of Expanded or Extruded Polystyrene Foam and used to package either food or beverage for onsite or offsite consumption. It includes Expanded or Extruded Polystyrene Foam meat trays containers used to transport raw and/or uncured meats, poultry, and fish and seafood from all Stores.

Store means all retail establishments, including but not limited to convenience stores, street vendors, restaurants, grocery stores, sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

PROHIBITIONS

1. No Store in Newcastle shall sell or provide a Single-Use Plastic 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 Store.
2. No Store in Newcastle shall serve or sell prepared food packaged in expanded or extruded polystyrene foam containers, and no food packager shall package meat, eggs, bakery products or other food in expanded or extruded polystyrene foam containers.
3. No Store in Newcastle that sells tangible personal property at retail shall sell expanded or extruded polystyrene foam food or beverage containers.
4. The Town shall not use expanded or extruded polystyrene foam food or beverage containers at any Town facility or Town-sponsored event.
5. No Town department or facility shall purchase or acquire expanded or extruded polystyrene foam food or beverage containers.
6. All parties who contract with the Town shall be prohibited from using expanded or extruded polystyrene foam food and beverage containers in Town facilities or on Town-funded projects within the Town.

EXEMPTIONS

1. A Store shall be exempt from the provisions of this Ordinance, in a situation deemed by the Town Administrator to be an emergency for the immediate preservation of the public health or safety.
2. The packaging of raw seafood and shellfish for shipping is exempt from the provisions of this Ordinance.
3. Nothing in this Ordinance shall be construed to prohibit customers from using bags or food and beverage containers of any type that the customer brings into the Store for their own use or from carrying away from the Store.

ENFORCEMENT AND PENALTIES

The Town Administrator or his/her designee(s) shall have the primary responsibility for enforcement of this Ordinance. If the Town Administrator 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:

1. A fine not exceeding \$250 for the first violation in a one-year period;
2. A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

SEVERABILITY

Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance be declared invalid all other provisions thereof shall remain valid and enforceable.

EFFECTIVE DATE

The provisions of this Ordinance shall become effective March 1, 2019