

Chapter 203

BAN ON USE OF SINGLE USE PLASTIC CARRYOUT BAGS AND EXPANDED/EXTRUDED POLYSTYRENE FOAM FOOD CONTAINERS

§203-1. Authority

This Ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Ordinance VIII, Part 2, 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.

§203.2. Purpose

This Ordinance shall prohibit the distribution of single-use plastic carryout bags and expanded and extruded polystyrene foam food containers to protect the environment and the local fishing, shellfish and tourist industries.

§203.3. Applicability

This Ordinance shall apply to all retail establishments, including but not limited to convenience stores, restaurants, grocery stores, and sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

§203.4 Definitions

EXPANDED OR EXTRUDED POLYSTYRENE FOAM CONTAINER: Any container that is made of Expanded or Extruded Polystyrene Foam and used to package either food or beverage for onsite or offsite consumption at a store. 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 as defined below.

GREETING CARD BAG OR PAPER PHARMACY BAG: Any paper bag without handles used exclusively to protect greeting or gift cards, or to carry prescriptions from the pharmacy at the point of sale.

PRODUCE BAG OR PRODUCT BAG: 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: A bag that meets all 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 non-woven plastic; and

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

SINGLE-USE PAPER CARRYOUT BAG: A paper bag provided at the check stand, cash register point of sale or other point of departure for purposes of transporting all food and all non-food related merchandise out of the Store. This includes paper bags with or without handles, but does not include reusable bags, greeting card bags or paper pharmacy bags.

SINGLE-USE PLASTIC CARRYOUT BAG: A plastic 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 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.

STORE: All retail establishments, including but not limited to convenience stores, restaurants, grocery stores, and sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

VIOLATION: One or more actions that are not in compliance with this ordinance. For example, the distribution of one or more banned plastic bags during a one-day period constitutes one violation.

§203.5. Provisions

- a) No store in Damariscotta 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.
- b) No food packaged in Damariscotta shall be served or sold in expanded or extruded polystyrene foam containers.
- c) A store may make available for sale to a customer a single-use paper carryout bag for a mandatory minimum charge of ten cents (\$0.10).
- d) All stores must post signage clearly indicating the per bag charge for single-use paper carryout bags.
- e) All monies collected by a store for single-use paper carryout bags may be used by the store for any lawful purpose.
- f) No store may make available for sale a single-use paper carryout bag unless the amount of the sale of the single-use paper carryout bag is separately itemized on the sale receipt.
- g) No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (c).
- h) The Town shall not use expanded or extruded polystyrene foam food or beverage containers at any Town facility or Town-sponsored event.
- i) No Town department or facility shall purchase or acquire expanded or extruded polystyrene foam food or beverage containers.
- j) 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.

§203.6. EXEMPTIONS

- a) 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.
- b) The packaging of raw seafood and shellfish for shipping shall be exempt from the provisions of this Ordinance.
- c) 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.

§203.7. ENFORCEMENT AND PENALTIES

The Code Enforcement Officer or other employee designated by the Town Manager shall have the primary responsibility for enforcement of this Ordinance. If the Code Enforcement Officer or other employee designated by the Town Manager 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 in the schedule of fees and fines adopted by the Board of Selectmen.

§203.8. APPEAL

Any entity aggrieved by the action of the Code Enforcement Officer or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Ordinance. Any person aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court.

§203.9. 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.

§203.10. EFFECTIVE DATE

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