



MEMORANDUM

TO: BATH CITY COUNCIL
FROM: LEE LEINER, PUBLIC WORKS DIRECTOR
SUBJECT: ORDINANCE BANNING SINGLE USE PLASTIC BAGS
DATE: SEPTEMBER 26, 2017
CC: PETER OWEN, INTERIM CITY MANAGER

As discussed with the City Council on September 6, 2017, the Solid Waste Advisory Committee presents an ordinance to encourage the use of reusable bags in Bath by:

- Banning the distribution of single use plastic bags, and
- Instituting a fee on single use paper bags.

Since January 2017 the committee has been studying whether Bath should adopt rules to reduce the volume of waste generated from single-use bags and polystyrene. Both of these items are found as litter in the environment as they do not break down. They foul waterways, impact wildlife, and clog storm drains. The manufacture of these items uses fossil fuels and causes the generation of greenhouse gases. Single use bags and non-recyclable foam containers contribute to a “throw-away culture” and it is hoped the ordinance will result in a return to a mindset of durability and reuse.

Single-use bags are those typically used by a business at the point of sale in which a customer would carry their purchased goods. Those goods may include groceries, house wares, clothing, jewelry, hardware items, etc. Businesses that may use these types of bags include grocery stores, convenience stores, drug stores, hardware stores, etc. The term single-use bag includes compostable and biodegradable bags, including paper bags, but does not include reusable bags, produce bags, or product bags.

The ordinance includes a fee on paper bags starting at \$0.05 per bag and rising to \$0.10 per bag one year after implementation of the ordinance, and to \$0.15 per bag two years after implementation. Businesses will keep any fee revenues from paper bag sales.

Businesses are free to choose whether to offer paper bags for purchase, to offer for purchase or give away any type of reusable bags, or require customers to bring their own bags or other containers. Customers may bring their own bags, not use bags, or purchase a paper or reusable bag.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

CHAPTER 13. REFUSE

Add a new Article 5 entitled “Single Use Carry-Out Bags,” as follows:

Article 5 - Single Use Carry-Out Bags

Section 13-61. Purpose.

It is in the best interest of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State 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. The purpose of this ordinance is to:

- Reduce litter arising from single use bags;
- Reduce taxpayer expenses to clean-up or otherwise manage litter and its impact;
- Reduce the environmental impact of their manufacture, transportation, and disposal;
- Create a citizenry informed about the impact of plastic in the environment; and,
- Encourage a culture of sustainability and discourage a culture of disposability.

Section 13-62. 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 M.R.S. Section 3001 et. seq. as well as the general powers of municipalities to enact police power ordinances.

Section 13-63. Findings.

- Single-use carryout bags have a negative impact on the environment and wildlife; and
- The City 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.
- It is important to keep the City of Bath as litter-free as possible to enhance the quality of life for Bath's residents and visitors; and

- Bath is a coastal community with a vested interest in protecting water resources from plastic debris; and

Section 13-64. Definitions.

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 from the store 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, or product bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry produce, meats, seafood, prescriptions, 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. Is designed and manufactured to withstand repeated uses over a period of time;
- B. Is washable or made from a material that can be cleaned and disinfected regularly;
- C. If plastic, has a minimum thickness of 2.25 mils, has handles, and has the capability of carrying a minimum of 18 pounds.

Store means all retail establishments and restaurants located within the City of Bath engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale, such as:

- A. A drug store, pharmacy, grocery store, convenience food store, food mart, or other entity 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 hardware store, home improvement supplier, clothing store, print shop, entertainment retailer, personal care product retailer including jewelry, gifts, house wares and crafts.
- C. A farmer's market and/or its tenant participants or other temporary and/or seasonal retail entities.
- D. Fairs, festivals, craft or flea markets, or other events of an infrequent and short-term nature, shall not be considered stores for the purposes of this article.

Section 13-65. Restrictions on Single-Use Carryout Bags.

- A. Prohibition. 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 from the store, for the purpose of transporting food or merchandise out of the establishment.

B. Single-Use Paper Carryout Bags.

- 1 A store may make available for sale to a customer a single-use paper carryout bag for a mandatory, minimum charge of five cents (\$0.05) per bag. The charge will increase to ten cents (\$0.10) per bag one year after this ordinance takes effect. The charge will increase to fifteen cents (\$0.15) per bag two years after this ordinance takes effect.
- 2 All monies collected by a store for single-use carryout paper bags under this section shall be retained by the store and used by the store for any lawful purpose.
- 3 All stores shall post signage at each point of sale clearly indicating the per bag charge for single-use carryout paper bags. This requirement shall not apply to restaurants.
- 4 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 paper bag is separately itemized on the sale receipt.
- 5 No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).

C Customer Options. 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.

Section 13-66. Exemptions

A Store may be deemed exempt from the provisions of this ordinance by the City Manager, in a situation which he determines to be an emergency, threatening and requiring the immediate preservation of the public health or safety.

Section 13-67. Violations and Enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this Ordinance. If the City Manager or his/her designee(s) determines that a violation of this Ordinance has occurred and is the first violation by the establishment within a one-year period, 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 second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period.

Each day that a violation occurs will be considered a subsequent violation.

Section 13-68. Effective Date.

The provisions of this ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-69. 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.