



TOWN OF FALMOUTH

ORDINANCE NO 76-2016

An Ordinance Amending the Code of Ordinances Regarding the Regulation of Single-Use Carryout Shopping Bags

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that Chapter II, Article 8 of the Falmouth Code of Ordinances, entitled Licenses, Permits and Business Regulations, is hereby amended to add Section 12 as follows:

Sec. II-8-12-1. Title.

This Section shall be titled and referred to as the “Ordinance Regulating Single-Use Carryout Shopping Bags.”

Sec. II-8-12-2. Purpose, Intent.

It is in the best interests of the citizens and visitors of Falmouth to reduce the cost to the Town of solid waste disposal and to protect the environment and natural resources by discouraging the distribution and use of disposable, single-use, carryout shopping bags and encouraging the use of reusable shopping bags in Stores, as defined in this Section.

Sec. II-8-12-3. Findings.

The Town Council hereby finds as follows:

- (1) The use of single-use carryout bags has a negative impact on the environment and on wildlife; and
- (2) Despite the value of single-sort recycling, plastic film from single-use plastic shopping bags binds and clogs sorting equipment and becomes a burden on recycling operations. In turn, Town taxpayers must bear costs associated with these effects on the solid waste stream; and

- (3) The Town, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy, landfill); and
- (4) Falmouth is a coastal community with an obligation to protect the ocean environment from plastic debris; and
- (5) It is estimated that approximately two million single-use plastic shopping bags are distributed to Falmouth customers each year; and
- (6) Studies document, and participating municipalities report, that prohibiting the free distribution of single-use carryout bags can dramatically reduce the number of those types of bags; and
- (7) The Town Council 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.

Sec. II-8-12-4. Authority.

This Ordinance is adopted pursuant to the Town's home rule authority pursuant to 30-A M.R.S. § 3001 *et seq.*

Sec. II-8-12-5. Definitions

As used in this Ordinance the following terms have the following meanings:

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, or bags distributed at dry cleaning establishments.

Produce Bag* or *Product Bag means any bag without handles used exclusively to carry produce, meats, other foods items or merchandise to the point of sale inside a store or to prevent such items from coming in 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) Is at least 4 mil thick, if made from plastic; and
- (d) Has the capability of carrying a minimum of 18 pounds.

Store means a retail establishment located within the Town of Falmouth engaged in the sale, rental and/or lease of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale, with a floor area whose square footage exceeds 10,000 feet.

Section II-8-12-6. Exemptions.

This Ordinance shall not apply to (1) dine-in or take-out restaurants; (2) dry cleaners; and (3) horticultural nurseries and/or commercial greenhouses.

Section II-8-12-7. Restrictions on Single-Use Carryout Bags.

- (a) Except as provided in this Section, no Store (as defined above) shall provide a Single-Use Carryout Bag to a customer at the check stand, cash register, point of sale or other point of departure for the purposes of transporting food or merchandise out of the establishment.
- (b) A Store may make available for sale to a customer a Single-Use Carryout Bag for a mandatory, uniform charge of five cents (\$0.05) per bag.
- (c) All monies collected by a Store for the sale of 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 Bags.
- (e) Notwithstanding this section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout Bag is separately itemized on the sale receipt.
- (f) No Store shall rebate or otherwise reimburse a customer any portion of the charge required in subsection (b).

Section II-8-12-8. Permitted Bags.

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.

Sec. II-8-12-9. Record Keeping and Inspection.

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout, 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 Article. 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 the Ordinance.

Sec. II-8-12-10. 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 Section has occurred, he/she shall issue a written warning notice to the Store that the violation has occurred. Subsequent violations of this Section shall be subject to the penalties set forth below.

Violations of this Section shall be punishable by fines as follows:

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

Sec. II-8-12-11. Effective Date

The provisions of this ordinance shall become effective on April 1, 2016.

Sec. II-8-12-12. Severability.

If any part or provision of this Section or the application thereof to any person or circumstances is held invalid, the remainder of this Section, 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 Section are severable.

Attest: _____

Ellen Planer
Town Clerk
January 11, 2016