

**CHAPTER 11  
HEALTH and SANITATION**

***Ordinance sections pertaining to single use carryout bags***

*Adopted effective December 6, 2017*

*Text copied from [https://www.capeelizabeth.com/government/rules\\_regs/ordinances/ch11.pdf](https://www.capeelizabeth.com/government/rules_regs/ordinances/ch11.pdf), pp 22-24*

**Article IV. Single Use Carryout Bags**

**Sec. 11-4-1. Purpose.**

The purpose of this article is to reduce the distribution of single use carryout bags by stores in the Town of Cape Elizabeth, and to encourage the use of reusable bags by residents and visitors of the Town.

**Sec. 11-4-2. Definitions.**

For the purpose of this Article, the following definitions shall apply:

(a) **Single Use Carryout Bag** shall mean a bag other than a Reusable Bag 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<sup>1</sup> but does not include Reusable Bags, Produce Bags, Product Bags or bags provided by pharmacists to contain prescription drugs.

<sup>1</sup> Compostable and biodegradable bags are included in this list because they do not naturally decompose and require processing in an industrial facility to biodegrade.

(b) **Produce Bag or Product Bag** shall mean any bag without handles used exclusively to carry produce, meats, seafood, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items.

(c) **Reusable Bag** shall mean a bag that:

- i. is designed and manufactured to withstand repeated uses over a period of time;
- ii. is machine washable or made from a material that can be cleaned and disinfected regularly;
- iii. is at least 2.25 millimeters thick if made from plastic;
- iv. has a minimum lifetime of 75 uses; and
- v. has the capability of carrying a minimum of 18 pounds.

(d) **Store** shall mean any of the following retail establishments located within the Town:

- i. a full-line, self-service market located in a permanent building that sells at retail a line of staple foodstuffs, meats, seafood, produce, household supplies, dairy products or other perishable items;
- ii. a drug store, pharmacy, supermarket, grocery store, convenience store, gift store, or other entity engaged in the retail sale of goods; or

- iii. farm stand

**Sec. 11-4-3. Single Use Carryout Bag.**

The following provisions shall regulate the use of Single Use Carryout Bags by a store.

- (a) No Store 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 purpose of transporting food or merchandise out of the establishment except as provided in this section.
- (b) A Store may make available for sale to a customer a Single Use Carryout Bag for a minimum charge of five cents (\$0.05).
- (c) All monies collected by a Store for Single Use Carryout Bags under this ordinance 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) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).

**Sec. 11-4-4. Exemptions.**

A Store is exempt from the provisions of this ordinance in a federal, state or local government emergency when the immediate preservation of the public health, safety or welfare requires the use of a Single Use Carryout Bag.

**Sec. 11-4-5. 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) determine(s) that a violation of this ordinance has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. A second violation shall be subject to a fine not exceeding \$100. A third and/or subsequent violation shall be subject to a fine not exceeding \$250 for each violation.

**Sec. 11-4-6. Severability.**

If any part or provision of this ordinance or the application thereof to any person or circumstances are 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.