



Town of Topsham, Maine  
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Topsham, Maine 04086  
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Codes Enforcement Office  
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December 28, 2016

RE: Bag Fee Ordinance

The Town Code of Topsham was amended by Referendum vote November 8, 2016 to include a fee on certain bags with an effective date of May 7, 2017. Please review the enclosed ordinance to determine if it is applicable to your business, applicability is determined by the defined terms within the ordinance. Example: The bag fee ordinance applies to any “Store” as defined by the ordinance, if your place of business is a “Store” as defined, the ordinance applies.

This notice or updated versions of this notice will be posted at <http://www.topshammaine.com> Tabs; Departments – Code Enforcement – Zoning Information. If you have any questions, please feel free to ask.

Yours Truly,

A handwritten signature in black ink, appearing to read "Tom Lister", with a horizontal line underneath.

Tom Lister, CEO

## **BAG FEE ORDINANCE**

Whereas, the use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and

Whereas, very few single-use carryout bags are recycled despite recycling and voluntary solutions to control pollution from single-use carryout bags; and

Whereas, numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and

Whereas, the Town of Topsham's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and

Whereas, 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 supports efforts to achieve State recycle goals; and

Whereas, from an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and

Whereas, the Town of Topsham aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the Town's residents and visitors; and

Whereas, the evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those businesses are defined in this Ordinance; and

Whereas, studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and

Whereas, the Town of Topsham believes that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

Whereas, it is in the best interests of the health, safety and welfare of citizens and visitors of Topsham to reduce the cost to the Town of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution

Now therefore, the Town of Topsham adopts the following ordinance regulating the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

### **XX-1. Definitions.**

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

**Single-use Carryout Bag.** Single-use Carryout Bag means 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 but **does not include**

- (a) *reusable bags*;
- (b) *produce bags or product bags*;
- (c) bags provided by pharmacists to contain prescription drugs;
- (d) any newspaper bag or dry cleaning bag;
- (e) a bag that a restaurant gives a customer to take prepared, carryout, or leftover food or drink from the restaurant; or
- (f) a once-used or re-used bag, such as those given out at thrift and antique stores.

**Produce bag or Product bag.** The terms produce bag or product bag mean any bag without handles used exclusively to carry produce, meats, 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.

**Reusable Bag** means a bag that is:

- (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) That is at least 4.0 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

**Store.** The term Store means any of the following retail establishments located within the Town of Topsham:

- (a) a full-line, self-service market 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 drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

**“Store” does not mean:** Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be “incidental” if such sales comprise no more than 2 percent of the business’s gross sales in the Town as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location

**Restaurant.** Restaurant means any lunchroom, café, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area. A restaurant does not include any area of a supermarket, department store, or other retail establishment beyond the kitchen and public dining area.

## **XX-2. Single-Use Carryout Bag.**

- (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 Chapter 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 minimum charge required in Subsection (b).

## **XX-3. Exemptions.**

During the first year of this ordinance, a *Store* may provide a *Single-Use Carryout Bag* at no cost at point of sale to a customer who purchased the items with food instruments distributed by the Department of Health & Human Services pursuant to the Supplemental Nutrition Assistance Program of the federal Child Nutrition Act of 1966.

A *Store* shall be exempt from the provisions of this Article, in a situation deemed by the Town Manager to be an emergency for the immediate preservation of the public health or safety.

## **XX-4. Record Keeping and Inspection.**

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

**XX-5. Violations and Enforcement.**

The Town Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the Town Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

- (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.

**XX-6. Effective Date.**

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this ordinance shall be effective at the expiration of 180 days after the date of its passage.

**XX-7. Severability.**

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