

DRAFT Sept. 19, 2018

City of Ellsworth

ORDINANCE REGULATING SINGLE USE CARRYOUT PLASTIC BAGS

Sec. 1-1. Purpose

Whereas, the City of Ellsworth desires to protect the natural environment; and

Whereas, the use of single use carryout plastic bags has negative environmental impacts on a local and global scale; and

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

Whereas, studies have documented that single use carryout plastic bags litter the environment, block storm drains, and endanger wildlife; and

Whereas, the City of Ellsworth's taxpayers bear costs associated with the effects of single use carryout plastic bags on the solid waste stream, litter, drainage and wildlife; and

Whereas, the City, 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 Maine's recycling goals; and

Whereas, evidence indicates that the vast majority of single use carryout plastic 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 distribution of single use carryout plastic bags will dramatically reduce the use of those types of bags; and

Whereas, the City Council of the City of Ellsworth believes that residents and visitors should be encouraged to use reusable bags and that prohibiting the distribution of single use carryout plastic bags is appropriate to 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 Ellsworth to reduce the cost to the City of solid waste disposal, and to protect our environment and natural resources by reducing the distribution of single use carryout plastic bags and incentivizing the use of reusable bags.

Now therefore, the City Council of the City of Ellsworth adopts the following ordinance regulating the use of single use carryout plastic bags.

Sec.1-2. Title and Authority

This Section shall be titled and referred to as the “Ordinance Regulating Single Use Carryout Plastic Bags.” This ordinance is enacted in accordance with the home rule authority granted to the City within State law under 30-A M.R.S. § 3001 et seq.

Sec. 1-3. Compliance required.

Any and all businesses and retailers operating in the City of Ellsworth are required to comply with this ordinance. See section 1-6 for exemptions.

Sec. 1-4. Definitions

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

Single Use Carryout Plastic Bag means a bag other than a reuseable bag, as defined below, provided at the checkout 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 Plastic Bag includes compostable and biodegradable bags¹ but does not include:

- **plastic produce bags** or **plastic product bags**, as defined below
- plastic sleeves used to protect newspapers from the elements
- dry cleaning bags
- once-used or re-used plastic bags, such as those given out at thrift shops, food pantries and libraries.

¹Compostable and biodegradable bags are included in this list because they do not naturally decompose and require processing in an industrial facility to degrade.

Plastic Produce Bag or Plastic Product Bag means any thin plastic film bag without handles used exclusively to carry fruit, vegetables, meat, seafood, bulk items, prepared foods, bakery goods, or other food at stores to prevent cross contamination or touching other items;

Reusable Bag means a bag that meets all of the following criteria:

- (a) Is made from fabric, cloth, nylon, woven or non-woven polypropylene, or RPET (recycled polyethylene terephthalate)
- (b) Is at least 4 mils thick, if plastic
- (c) Is machine washable or can be cleaned and disinfected regularly
- (d) Designed and manufactured to withstand at least 60 uses
- (e) Has the capability of carrying a minimum of 18 pounds

Business means any retail or commercial establishment operating in the City of Ellsworth, Maine.

Section 1-5. Restrictions on single use carryout plastic bags.

- (a) No Business shall provide or make available for sale a Single Use Carryout Plastic Bag to a customer at the checkout stand, cash register, point of sale or other point of departure for the purposes of transporting food or merchandise out of the establishment.
- (b) Businesses, at their discretion, may make a Reusable Bag or a paper bag available to the customer either for free or for a fee at the checkout stand, cash register, point of sale or other point of departure for the purposes of transporting food or merchandise out of the establishment. Businesses shall keep any proceeds from the sale of Reusable Bags and paper bags at point of sale.

Section 1-6. Exemptions.

A Business shall be exempt from the provisions of this article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

Section 1-7. Permitted Bags.

Nothing in this Section shall be construed to prohibit customers from using bags of any type (reusable, plastic, or paper) that the customer brings with them to the Business for their own use. Furthermore, nothing in this Section shall be construed to prohibit customers from carrying away goods from the Business that are not placed in a bag provided by the Business.

Sec. 1-8. Violations, Enforcement, Penalties.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Ordinance. If the City 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 Business 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 written warning for the first violation
- (b) A fine not exceeding \$250 for the second violation;
- (c) A fine not exceeding \$500 for the third and each subsequent violation.

If the city is the prevailing party in a prosecution for violating this ordinance, it shall be awarded its reasonable attorney's fees.

Sec. 1-9. Effective Date

The provisions of this ordinance shall become effective on April 22, 2019.

Sec. 1-10. 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.