



Crafting a Local Shopping Bag Ordinance

A Guide from the Natural Resources Council of Maine

Congratulations on your efforts to take action to cut down on single-use shopping bags in your community. The Natural Resources Council of Maine (NRCM) has helped many towns navigate this issue. We usually find that people who want to limit the use of shopping bags easily agree on the problem, but they often get stuck deciding on solutions. The old adage applies: the devil is in the details.

As part of your work, it is important to gather feedback and garner support for the provisions in your ordinance early in the process, and be clear on the intent before drafting the actual language. It is good to discuss among your group what the ideal outcome is, but be flexible to meet the needs of your community and decision makers if needed to be successful. These questions can help guide your group through the process.

What is the Purpose of the Ordinance?

Be sure to clearly articulate the goals of your proposed ordinance. For instance, some groups approach bag ordinances as a way to reduce plastic litter, but also to address climate change, and as a way to encourage their community to place a higher value on resources in general. A well-designed ordinance can address all of these issues, but they are not a silver-bullet solution to all of these issues. It's important to *stay focused* on your primary goal as you work through your discussions.

NRCM believes the most compelling reason for shopping bag ordinances is to eliminate the proliferation of single-use plastic bags and their likelihood of ending up in the environment. There is, however, also a need to avoid creating another environmental problem by a large-scale

switch to paper bags. For that reason, we believe the ultimate goal of the ordinance should be to encourage use of durable, reusable bags for shopping.

Why Should Both Plastic and Paper Bag Use be Discouraged?

NRCM believes that including both paper and plastic bags in your ordinance is very important, and the goal should be to encourage residents to shop with reusable bags. Ultimately, because of the damage caused by plastic pollution in the environment, a ban on plastic bags only is a huge win. However, an ordinance that focuses only on plastic bags will likely lead to an increase in the use of paper bags, instead of a shift toward reusable bags—which leads to other environmental problems.

You may have approached this ordinance as a response to plastic in the environment, but it is also important to consider the impacts associated with paper bags. True, paper bags can be recycled more easily than plastic, are



biodegradable, and are less likely to get caught in trees and storm drains. But paper bags often weigh more than plastic, and logging and paper mill air and water pollution have significant environmental impacts. Further, paper cannot be recycled in perpetuity—the fibers wear down and become too small to be recycled over time.

NRCM’s position is that when you look at the overall life-cycle of plastic bags and paper bags, they should *both* be discouraged. Any durable, washable, reusable bag that is used dozens of times will be “better” for the environment than disposable plastic and paper bags.

How Do You Define a Reusable Bag?

This is actually a controversial question, and could lead to unintended consequences if not defined properly in your ordinance. Some town policies say that it must be able to be reused a certain amount of times and withstand repeated washing; others list the types of material, and many define the *thickness* of the bag, which is measured in Mils.

Common Products	Bag Thickness
Thin shopping bag (grocery store)	.5 Mils
Bread bag	1.5 Mils
Thick shopping bag (clothing or shoe store)	2 Mils

A Mil is a unit of measurement used to measure the thickness of film plastics in thousandths of an inch: 1 Mil=1/1000 inch. Below is a reference table of common products and their sizes.

It is important to be careful when defining a reusable bag by Mils. If a reusable bag is defined as a 2.25 Mil bag and greater, for example, the result could be a move away from

thin plastic bags to *thick* plastic bags. This could mean more plastic waste instead of less. These bags may be stronger, but they are still not thick enough to withstand repeated trips to the grocery store—and more often than not are still discarded after a single use. While many stores will be law-abiding and support the intention of the local ordinance, it is wiser to define reusable, non-woven plastic bag as being 4 Mils or greater.

You will also want to consider what to do about the small plastic bags commonly used for produce and meat. These bags are often excluded from ordinances, but there are easy to use alternatives to these bags. Other bags you will want to consider include: pharmacy bags, newspaper bags, dry cleaning bags, and restaurant carry-out bags.

Is It Better to Impose a Ban or a Fee?

Most local ordinances in the U.S. ban plastic bags and place a fee on paper bags. This approach eliminates the most plastic bags and provides a disincentive to use paper bags. However, some communities prefer applying a fee to both types of bags in order to discourage the use of both, while preserving the option for consumers to pay for a preferred type of bag. NRCM believes that it is important to “not let the perfect be the enemy of the good” and to work with local decision makers on solutions that move you toward your goal.

If Fees are Established, How Much Should They Be?

Whether your proposal places a fee on both plastic and paper, or a fee on paper in conjunction with a plastic bag ban—there are many options for the fee amount. In the United States, it is rare to charge more than 10 cents per

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Sample Shopping Bag Ordinance Language

PURPOSE

It is in the best interests of the Town of X to protect the environment and our local economy by prohibiting the distribution and use of single-use plastic bags, and encouraging use of durable, reusable alternatives to disposable paper shopping bags.

The provisions in this Ordinance will:

- a) Reduce litter of single-use plastic shopping bags
- b) Reduce taxpayer expense to clean up or manage plastic litter
- c) Reduce the impact of plastic litter on our local tourism and fishing economy
- d) Reduce waste from disposable shopping bags

AUTHORITY

This Section is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Ordinance VIII, Part2, Section1, the provisions of Title 30-A M.R.S. Section 3001 et. seq, as well as the general powers of municipalities to enact ordinances.

DEFINITIONS

Single-Use Plastic Carryout Bag means a plastic 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 purposes of transporting all food and all non-food related merchandise out of the Store. This includes compostable and biodegradable plastic bags, but does not include reusable bags as defined below, produce bags, or product bags.

Single-Use Paper Carryout Bag means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for purposes of transporting all food and all non-food related merchandise out of the Store. This includes paper bags with or without handles, but does not include reusable bags as defined below, greeting card bags, or paper pharmacy bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry produce, meats, or other food items of merchandise to the point of sale inside a store or to prevent such items from coming in direct contact with other items.

Greeting Card Bag or Paper Pharmacy Bag means any paper bag without handles used exclusively to protect greeting or gift cards, or to carry prescriptions from the pharmacy at the point of sale.

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

- a) Designed and manufactured to withstand 125 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 four mils thick, if made from plastic; and
- d) Has the capability of carrying a minimum of 18 pounds.

Store means all retail establishments, including but not limited to convenience stores, restaurants, grocery stores, pharmacies, seasonal and temporary businesses, sellers of merchandise

and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

PROHIBITIONS

- a) No Store in the town shall sell or provide a Single-Use Plastic 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 Store.
- b) A Store may make available for sale to a customer a Single-Use Paper Carryout Bag for a mandatory minimum charge of X cents (\$0.XX).
- c) All monies collected by a Store for Single-Use Paper 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 Paper Carryout Bags.
- e) No Store may make available for sale a Single-Use Paper Carryout Bag unless the amount of the sale of the Single-Use Paper Carryout Bag is separately itemized on the sales receipt.
- f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

EXEMPTIONS

- a) A Store shall be exempt from the provisions of this Ordinance, in a situation deemed by the Town Manager to be an emergency for the immediate preservation of the public health or safety.
- b) Nothing in this Ordinance shall be construed to prohibit customers from using bags or food and beverage containers of any type that the customer brings into the Store for their own use or from carrying away from the Store.

ENFORCEMENT AND PENALTIES

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 Ordinance has occurred, 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) 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.

SEVERABILITY

Each provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision of this Ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

EFFECTIVE DATE

The provisions of this Ordinance shall become effective on XX/XXXX.



bag, and most communities that have fees on both paper and plastic charge 5 cents for each. There are exceptions, though.

It is common to charge the equivalent of 15 cents or more per paper and plastic bag in other countries. If you have a plastic bag ban, then a fee on paper not only encourages the use of reusable bags, but it also helps stores recover the potentially higher cost of purchasing paper bags. NRCM is supportive of reasonable fees that make sense for the community.

If Fees are Established, Will Fees be Devoted to a Town Fund?

Some ordinances that set fees for both plastic and paper will have a portion of the fee transferred to the city or town for a clean-up fund. Cities that have banned plastic bags and established a fee on paper bags generally allow the store to retain the fee to cover the increased costs of offering only paper bags and to reduce or eliminate the administrative burden of collecting the fees.

The purpose of a fee is to discourage disposable bag use, not to generate funds: In an ideal world, no one would pay for a bag and the fees accumulated would be \$0. NRCM is supportive of any of these options because no matter where the fees go, the most important reason for the fee is to create a disincentive for single-use disposable bags.

What Kinds of Stores Will be Affected by the Ordinance?

Most ordinances in the U.S. cover bags used by grocery and convenience stores, which account for about 70 percent of total bag use in most towns. Many ordinances determine which stores to include based on a percentage of sales

(e.g. 2%) that are attributed to food sales. Some ordinances only affect stores with more than 10,000 square feet of retail space. Others include all businesses such as grocery stores, convenience stores, restaurants, pharmacies, farmers markets, dry cleaners, and retail stores.

Deciding which businesses are impacted by the ordinance can be a controversial issue in many towns. If it is holding your ordinance back, then one approach could be to start with a few types of stores and add more over time. Or you could include all stores in your definitions but then make some exceptions. For instance, you could exempt small paper bags used for cards, small retail shops, or specialty items from the paper bag fee. NRCM generally advocates that the ban or fee applies across the board because it is more equitable, but we also celebrate movement in the right direction.

How Will the Ordinance be Enforced?

The ordinance must address who will be responsible for enforcement and set the penalties for non-compliance. Typically it would be up to the City or Town Manager to designate the town employees who have the primary responsibility for enforcement. The enforcers who find a violation could send an initial warning notice, and then establish increasing fines for each subsequent violation. You can also encourage residents to report to the City Manager when they find that a business is not complying with the ordinance.

Will There be Exemptions?

Exemptions are typically only applied during emergency situations, but each ordinance can include its own list of exemptions as you deem necessary.

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