

**Chapter 203**  
**BAN ON USE OF SINGLE USE PLASTIC CARRYOUT BAGS**

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**§203.1. Authority**

This Ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Ordinance VIII, Part 2. Section 1; the provisions of Title 30-A, MRS, Section 3001 et Seq; as well as the general powers of municipalities to enact ordinances.

**§203.2. Purpose**

This Ordinance shall prohibit the distribution of single-use plastic carryout bags to protect the environment and the local fishing, shellfish and tourist industries.

**§203.3. Applicability**

This Ordinance shall apply to all retail establishments, including but not limited to convenience stores, restaurants, grocery stores, and sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale

**§203.4. Definitions**

**GREETING CARD BAG OR PAPER PHARMACY BAG:** 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.

**PRODUCE BAG OR PRODUCT BAG:** 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.

**REUSABLE BAG:** A bag that meets all 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 non-woven plastic; and
- (d) Has the capability of carrying a minimum of 18 pounds.

**SINGLE-USE PAPER CARRYOUT BAG:** A paper bag provided at the checkout 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, greeting card bags or paper pharmacy bags.

**SINGLE-USE PLASTIC CARRYOUT BAG:** A plastic bag other than a reusable bag, as defined below provided at the checkout 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. The term Single-Use Plastic Carryout Bag does not include reusable bags, produce bags or product bags.

**STORE:** All retail establishments, including but not limited to convenience stores, restaurants, grocery stores, and sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

**VIOLATION:** One or more actions that are not in compliance with this ordinance. For example, the distribution of one or more banned plastic bags during a one-day period constitutes one violation.

### **§203.5. Provisions**

- a) No store in Damariscotta shall sell or provide a single—use plastic carryout bag to a customer at the check stand, cash register, point or sale or other point of departure for the purpose of transporting food or merchandise out of the store.

### **§203.6. 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 in 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.

### **§203.7. ENFORCEMENT AND PENALTIES**

The Code Enforcement Officer or other employee designated by the Town Manager shall have the primary responsibility for enforcement of this Ordinance. If the Code Enforcement Officer or other employee designated by the Town Manager 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 in the schedule of fees and fines adopted by the Board of Selectmen.

### **§203.8. APPEAL**

Any entity aggrieved by the action or the Code Enforcement officer or any other municipal official in their administration of this Ordinance shall have the right of appeal to the Board of Appeals. Such appeal shall be taken pursuant to the procedures set forth in the Board of Appeals Ordinance. Any person aggrieved by the decision of the Board of Appeals shall have the right to appeal to Superior Court.

### **§203.9. 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.

**§203.10. EFFECTIVE DATE**

The provisions of this Ordinance shall become effective March 1, 2019.

Given unto our hands this 7th day of November, 2018.

Damariscotta Board of Selectmen:

*[signature]*

Robin Mayer

*[signature]*

Ronn Orenstein

*[signature]*

Mark Hagar

*[signature]*

Amy Leshure

*[signature]*

Louis F. Abbotoni

Attest: A true copy of an ordinance entitled "Ban on Use of Single Use Plastic Carry Out Bags Ordinance" for the Town of Damariscotta, Maine-November 6, 2018, as certified to me by the municipal officers of Damariscotta, Maine on the 7th day of November, 2018.

*[signature]*

Michelle Cameron, Town Clerk

Damariscotta, Maine

Legislative History

Enacted November 6, 2018, effective March 1, 2019