

CHAPTER 13

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CHAPTER 13. REFUSE

Article 1. Garbage and Refuse

Section 13-1. Definitions.

As used in this Chapter:

(1) Ashes shall mean residue from the burning of wood, coal, coke or combustible material.

(2) Contractor shall mean any person who contracts with another to do special work according to price, specifications and terms agreed on, in the business of cement or concrete contracting, either flat, form or wall work; a masonry contractor; remodeling contractor; general building contractor; electrical contractor; roofing contractor; plumbing contractor; landscaping contractor; and any person engaged in the construction, alteration or repair of buildings or other structures or sidewalk or driveway pavements.

(3) Garbage shall mean putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(4) Refuse shall mean all putrescible and on-putrescible solid waste, including garbage, rubbish, ashes, street cleaning, abandoned automobiles, and solid market and industrial waste.

(5) Rubbish shall mean non-putrescible solid waste consisting of both combustible and on-combustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

(6) Person is any individual, association, partnership, firm, corporation or other entity or the agents of any of them.

(7) Resident shall mean any person who resides within the geographic boundaries of the City of Bath or who may pay property taxes to the City or any resident or taxpayer of a Municipality which contracts with the City of Bath for use of the Bath Landfill Facility.

(8) Waste shall include garbage, rubbish and refuse as defined in Section 13-1 (3) (4) (5).

(9) Demolition and Construction Debris shall include lumber, bricks, masonry, asphalt, shingles, insulation and other similar material.

(10) Household Refuse shall include that refuse commonly generated by usual residential domestic activities and excludes material defined as demolition and construction debris, furniture, white goods, tires, abandoned automobiles, and any other items that cannot completely fit into the officially designated PAYT bag. Household refuse shall specifically exclude refuse generated at properties with more than two (2) dwelling units on them (excluding condominiums), as well as refuse generated by bed and breakfast establishments and dwellings with Class B home occupation uses. Such refuse from these units shall be considered commercial for purposes of collection and shall not be collected as residential household refuse. (Order: 8-1-2018)

Officially designated bag shall mean the container designed and selected by and manufactured for the City for use by residents for the holding of household wastes for curbside collection as part of the PAYT program. The container is sold at retail establishments for residents' purchase and use. Household wastes not completely enclosed by this container will not be picked up by the curbside collection contractor.

PAYT is Pay-As-You-Throw, a unit-based pricing program for the collection of solid waste whereby waste placed at the

(11) Commercial Hauler shall mean any hauler of commercially generated waste including demolition and construction debris. Persons hauling refuse for apartment buildings, bed and breakfast establishments and rooming houses of more than two units shall be considered commercial haulers.

(12) Non-household Refuse shall include white goods, furniture, tires, abandoned automobiles, and any other item that exceeds sixty (60) pounds in weight or four (4) feet in any dimension, and the like.

Section 13-2. City dumping facilities; use of facilities.

(a) The City Council shall provide a suitable place for the depositing, dumping or disposal of refuse. All persons shall cause such refuse to be disposed of in the place provided by the Council.

(b) The city Clerk, upon written application, may issue permits, after approval of the permit by the Health Officer, or his or her designee, to deposit upon private lands, earth, ashes, cinders or rock for filling in purposes, but not putrescible, organic, vegetable or animal matters, except fertilizer and manure shall be deposited on such private fills.

(c) Private landfills are prohibited within the City of Bath.

(d) Use of the City landfill facility is limited to Bath residents. Bath businesses and residents and businesses of Towns under contract or other agencies approved by council.

Section 13-3. Refuse collection; license required.

(a) No person shall, within the City, collect for compensation, any refuse, or engage in the business of collecting and transporting refuse without first obtaining a license therefore from the Clerk.

(b) No person shall deposit or dump refuse at the place provided by the Council without first obtaining a license.

Section 13-4. License classification; fee.

(a) The City Clerk, upon written application therefore, and, if applicable, the payment of the fee as listed below, may issue permits in the following categories to convey to the City dump.

CATEGORY	FEE
(1) <u>Residential</u> (a) Residents of the City and Residents of Municipalities Contracting with the City for Household Refuse	No fee (see §13-41 re: Limitation of access after July 1, 1988)
(b) Residents of the City and Residents of Municipalities contracting with the City for items not considered Household Refuse, but being classified as Non-Commercial.	No fee
(2) <u>Commercial</u> - (a) Any person, Resident or Non-Resident, that collects for compensation within the City or refuse from City residents and businesses and depositing said refuse at City Dump.	\$75.00 per vehicle
(b) <u>Contractors</u> - 1. Yearly permit to haul from any work site within the City.	\$45.00
2. For each work site if a yearly city-wide permit is not obtained.	\$25.00
(3) <u>Businesses</u> - Businesses within the City who do not have their waste collected by a commercial hauler	\$25.00

The above captioned fees may be altered or amended from time to time by Resolution of the Bath City council. It is understood that these license fees are for access to the dump facility and are in addition to those fees based on the volume of material placed in the dump site in accordance with Section 13-32. (CHECK)

Section 13-5. License expiration date.

All licenses and permits issued under this Article shall expire on June 30 of each year.

Section 13-6. Suspension of license.

The Health officer, or his or her designee, may suspend the license or permit of any person for failure to comply with the provisions of this Article, such suspension to continue until such person, in the judgment of the Health Officer, or his or her designee, has remedied the faults and agrees to comply with the provisions of this Article in the future. The Health officer, or his or her designee, shall suspend the license or permit of any person found guilty by a court of competent jurisdiction of any violation of the provisions of this Article.

Section 13-7. Revocation of license.

The Council may, upon a hearing had after twenty-four (24) hours written notice to the

licensee, revoke the license of any person for failing to comply with the provisions of this Article.

Section 13-8. Hours of operation of dump.

The place provided by the Council for the depositing, dumping or disposal of refuse in accordance with Section 13-2 shall be open to all persons on a schedule to be determined by the City Manager. The schedule shall be available at the office of the Clerk and shall be posted at the dump.

Section 13-9. Vehicle transportation refuse to be covered.(Ord. 9-6-08)

A. Security of Load. Any vehicle, including City owned vehicles, that may be operated upon any public way within the City of Bath, which is conveying refuse, shall have that refuse covered, confined, loaded, closed, or sealed in a manner as to prevent any overflow, spillage, or leakage of the refuse material. The owner and/or operator of the vehicle shall use such material and method of securing the load such that will ensure its security.

B. Party Responsible. Responsibility for securing the load shall be with the owner and with the operator of the vehicle.

C. Clean Up. Any material that has fallen or spilled from the vehicle onto a public way or adjoining private property, shall be removed or cleaned up immediately by the owner and/or operator of the vehicle. All costs of removal or clean up and proper disposal of the material shall be borne by the owner and/or operator.

D. Penalties and Costs.

1. Warning. If the owner and/or operator is not a habitual offender and the unsecured load has caused minimal or no spillage, then a written warning may be issued at the discretion of the issuing officer.

2. Penalty. A violation of this Section is a civil violation and is subject to a penalty of not less than One Hundred and Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00). Such penalty shall be imposed for any violation that is determined to be more serious, due to frequency or magnitude of spillage, than a violation that would merit only a warning.

3. Clean Up Costs. In addition to the penalty above, the owner and/or operator of the vehicle, jointly and severally, shall be responsible for any costs of clean up and proper disposal of any spillage material.

4. Enforcement Costs. The City of Bath shall be reimbursed all of its enforcement costs, including, but not limited to its reasonable attorney's fees, court costs and staff costs.

5. License Suspension/Revocation. If the owner and/or operator of the vehicle is a

commercial entity with a license to dispose of refuse material at the Bath City Landfill, that license may be suspended or revoked by the Codes Enforcement Officer. Any appeal of a suspension or revocation order may be made to the City Manager.

Section 13-10. Transporting refuse into City.

No person shall deposit, dump or dispose of refuse, rubbish, garbage or any other item of waste material or in the place provided by the Council, which has been collected from outside the city limits unless the council negotiates a contract for such use with an adjacent community or entity reviewable yearly, provided that any person collecting for compensation outside the City limit must get a permit under Section 13-4.

Section 13-11. Burial of dead animals.

No dead animals shall be buried or deposited at any time at the place provided by the Council for the depositing of rubbish, garbage and other waste matter. No person shall dispose of the carcass of any animal within the City except by burying it in a suitable place at least two (2) feet under ground, and subject to the provisions of 7 M.R.S.A. § 1815.

Section 13-12. Depositing refuse in public prohibited.

Except as provided in Sections 13-2 and 13-3, no person shall throw or deposit, or cause to be thrown or deposited, any refuse in any street, gutter, cesspool, lane, court, square, alley, wharf, dock, body of water adjacent to the City, or any property within the City not designated as a refuse disposal area.

Section 13-13. Maintenance of waste receptacles.

All waste receptacles must be kept clean, free from objectionable odors and securely covered at all times except when depositing or removing the contents. The receptacles shall be kept so that the contents shall not freeze and where it will be convenient to access to the collector.

Section 13-14. Accumulation of refuse as health hazard.

No person shall cause or permit the accumulation of refuse in, about or upon premises owned, occupied or used by him, when and if, in the judgment of the Health officer, or his or her designee, such accumulations are unsightly, unsanitary or hazardous to the property, life, health, safety and welfare of the public.

Section 13-15. Enforcement.

The Health officer, or his or her designee, and the Police Department shall see that the provisions of this Article are enforced and that all violations thereof are promptly abated and the violations thereof prosecuted.

Section 13-16. Penalty.

In addition to any other penalty provided herein, any licensee under this Article violating any provision hereof, shall have the use of his permit license suspended for a period of six (6) months, and, any person violating this Article shall be subject to a fine of up to One Hundred Dollars (\$100.00).

Section 13-17. Dump scavenging prohibited.

No person, firm, or corporation, or their agents, shall, except by permission of the City Council of the City of Bath, remove any article or object which has been deposited or dumped and left at the City dump, nor shall they enter on or upon any place designated by the City Council of the City of Bath as a City dump, with the intent to pick, take, collect or in any way acquire any article, matter or substance which has been deposited or dumped and left at said City dump. Any such person, firm, or corporations violating this Section shall be punished as a Class "E" offender, pursuant to Title 17-A of the Maine Revised Statutes Annotated. Any person, firm or corporation convicted of a second or subsequent offense shall be punished as a Class "D" offender, pursuant to said Title 17-A.

Section 13-18. Prohibition against using public receptacles for household refuse.

It shall be a violation of this Section for any person to deposit in a public waste receptacle any household refuse carried from a household, or industrial or commercial waste.

Section 13-19 - 13-25. Reserved.

Article 2. Landfill Fee Schedule

Section 13-30. Purpose

The purpose of this Article is to provide for a fee structure for use of the Bath Landfill Facility.

Section 13-31. Operational Standards

A. Placement of Wastes. All waste and materials delivered to the site shall be deposited only in those areas designated by the Public Works Director or his designee.

B. Prohibited Wastes. The following wastes shall not be accepted for deposit in the landfill.

1. Junk vehicles
2. Dead Animals
3. Sewerage
4. Waste classified as hazardous
5. Waste classified as radioactive
6. Containers of liquid or solid waste that are sealed and or closed.

7. Cathode Ray Tubes (Ord. 2/6/02)

C. License Required. All persons utilizing the landfill facility shall be licensed in accordance with Section 13-3 and Section 13-4.

Section 13-32. Fee Schedule

RESIDENTS

Metal/demolition up to 500 lbs.	\$5.00
Metal/demolition over 500 lbs.	\$65.00/ton
Natural wood products, brush, leaves, yard waste up to 500 lbs.	\$5.00
Natural wood products, brush, leaves, yard waste over 500 lbs.	\$50.00/ton
Porcelain up to 500 lbs.	\$5.00
Porcelain over 500 lbs.	\$46.00/ton
Leaves up to 500 lbs.	\$5.00
Leaves over 500 lbs.	\$20.00/ton
Demolition Wood up to 500 lbs.	\$5.00
Demolition Wood over 500 lbs.	\$60.00/ton

COMMERCIAL HAULERS:

A. The City Manager shall have the authority to adjust the tipping fee per ton of material on a short-term basis, not to exceed thirty (30) days, in order to be responsive to market conditions concerning the disposal of solid waste. Any adjustment by the City Manager shall be effective upon its promulgation and shall remain in effect for no longer than thirty (30) days unless confirmed by Resolution of the City Council within the thirty (30) day period. (9/01/04)

Municipal Solid Waste	\$90.00/ton
Construction/Demolition waste from Bath	\$65.00/ton
Construction/Demolition waste from outside Bath	\$85.00/ton
Metal items from Bath	\$65.00/ton
Metal items from outside Bath	\$85.00/ton
Bulky Waste from Bath (mattresses, overstuffed furniture, etc.) (> 500 lbs only)	\$100.00/ton
Bulky Waste from outside Bath (> 500 lbs. only)	\$100.00/ton
Mixed Loads from Bath containing items we separate (metals, tires, etc.)	\$300.00/ton
Mixed Loads from outside Bath	\$300.00/ton

RESIDENTS & COMMERCIAL HAULERS:

Tires:

Car tire up to 16" diameter, no rim	\$2.00/tire
Car/Truck tire greater than 16" diameter, no rim	\$10.00/tire
Heavy Equipment Tires \$0.15 per pound with	\$25.00 minimum

Asphalt Roof Shingles:

Clean Asphalt Roof Shingles from Bath	\$60.00/ton
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Clean Asphalt Roof Shingles from outside Bath	\$65.00/ton
Mixed Asphalt Roof Shingle	Not Accepted

Tanks:

Propane - 20 lb.	\$2.00 each
Helium – any size	\$5.00 each
Fire Extinguishers – any size	\$5.00 each

Porcelain:

Bath Residents	\$46.00/ton
With first 500 lbs @\$5	
Commercial from Bath	\$46.00/ton
With \$5 minimum	
From outside Bath	\$51.00/ton
With \$5 minimum	

Natural wood products (brush, tree parts & leaves):

Residential from Bath Residents	\$50.00/ton
With first 500 lbs @ \$5	
Commercial from Bath	\$50.00/ton
With \$5 minimum	
Residential or Commercial from outside Bath	\$70.00/ton
With \$5 minimum	

Leaves

Residential from Bath Residents	\$20.00/ton
With first 500 lb. @ \$5	
Commercial from Bath	\$20.00/ton
With \$5 minimum	
Residential or Commercial from outside of Bath	\$20.00/ton
With \$5 minimum	

Demolition Wood Products (separated from other wastes)

Residential from Bath Residents	\$60.00/ton
With first 500 lb. @ \$5	
Commercial from Bath	\$60.00/ton
With \$5 minimum	
Residential or Commercial from outside of Bath	\$80.00/ton
With \$5 minimum	

Universal Wastes:

Item	Bath Sources	Out-of-Town Sources
Light Bulbs		
Straight 2' fluorescent	Free	\$1.00 each
Straight 4' fluorescent	Free	\$1.50 each

Straight 8' fluorescent	Free	\$2.00 each
U-shaped fluorescent	Free	\$3.50 each
Circular fluorescent	Free	\$3.50 each
Other lamps*	Free	\$6.50 each
*High intensity discharge, neon, mercury vapor, high pressure sodium, metal halide		
PCB Ballasts	Free	\$7.00 each
Rechargeable Batteries*	Free	Free
*Nickel-Cadmium (Ni-CD), Nickel-Metal Hydride (Ni-MH), Lithium Ion (Li-ion), Small sealed lead (Pb) up to 2 lbs each		
Mercury Thermostats	Free	\$1.00 each
Mercury Thermometers	Free	\$1.00 each
Residential Cathode Ray Tubes	\$4.00 each	\$4.00 each
Commercial Cathode Ray Tubes	\$15.00 each	\$15.00 each
Computer CUP/Laptops	\$3.00 each	\$3.00 each
Desktop printer/scanner/fax/ups	\$9.00 each	\$9.00 each
Computer peripherals (mouse, keyboard)	\$2.00 each	\$2.00 each

Drywall/Sheetrock (clean only):

Clean Drywall from Bath	\$65.00/ton
Clean Drywall from outside Bath	\$70.00/ton
Mixed Clean Drywall Not Accepted	

Vehicle Batteries:

Any type (limit of 2 per customer per day)	\$5.00 each
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Asbestos (non-friable only):

From Bath	\$60.00/ton
From Outside Bath	\$75.00/ton

Special Wastes*

\$100.00/ton \$100.00/ton

* The City reserves the right to charge additional tipping fees to cover the costs of any laboratory characterization to determine the constituency of such waste. The City reserves the right to reject any special wastes.

Fees for the above-described items may be deleted or adjusted, and other items may be added by Resolution of Council.(Ord. 5/7/2003; Ord. 4/6/2005)

Section 13-33. Non-payment

Failure to pay any fee assessed hereunder shall constitute a violation of this Section and shall result in refusal of access to the facility and prohibition of any additional dumping of material or other use of the facility. In addition, any fee that remains unpaid thirty (30) days after the date of billing, will be assessed interest at the same rate as assessed against unpaid ad valorem property

taxes as set annually by Council in accordance with Section 7-101 of the Code. (Ord. 2/1/2006)

Article 3. Mandatory Curbside Pickup

Section 13-40. Purpose; effective date.

The purpose of this Article is to provide for mandatory curbside pickup of all household refuse, as that term is defined in Section 13-1(10) of this Chapter, in order to more appropriately provide for the safe and sanitary operation of the City's solid waste facility, to protect the health, safety, and welfare of the citizens of the City of Bath, and to enhance and maintain the quality of the environment. This Ordinance shall take effect on July 1, 1988.

Section 13-41. Access to landfill facility.

As of the effective date of this Ordinance, no person, individual, association, partnership, firm, corporation, tenant, owner, or other entity or the agent of any of them, will be permitted access to the Bath Landfill Facility for the purpose of disposing of household refuse as defined in

Section 13-1(10). Access may be had, however, for the purpose of disposing of items not defined as household refuse, such as stumps or brush, demolition and construction debris, white goods, tires or the like, said disposal to be in accordance with this Chapter.

Section 13-42. Mandatory curbside pickup established.

The City of Bath, either through its own offices and employees, or by virtue of contract(s) with Private refuse collection contractor(s), or any combination thereof, shall provide for the curbside pickup of all household refuse within the City of Bath as that term is defined in Section 13-1(10), and specifically excluding refuse generated at properties with more than two (2) dwelling units on them. (Order: 8-1-2018)

Section 13-43. Collection requirements. (The effective date of this Section of the Ordinance shall be October 1, 2007)

Curbside pickups shall be conducted in accordance with the following standards:

- (1) **Security.** All household waste shall be placed in an officially designated bag as defined in this ordinance. The containers may be placed inside steel or plastic cans to prevent damage by animals and weather and to prevent odors.
- (2) **Weight, Number.** The weight limit of each individual officially designated bag will be 60 pounds. Each residential unit is permitted to set out for collection up to 6 containers per week or collection period.
- (3) **Curbside Access.** Household waste for collection shall be placed on the curbside on the day designated for collection in that area by 7:00 A.M., but at no rate earlier than 6:00 p.m. of the prior day. Empty containers shall be removed as soon as practical after the

refuse is collected. Containers and packages shall not be left so as to interfere with the passage of vehicular or pedestrian traffic winter snow removal, or street sweeping.

(4) Litter Control. All reasonable precautions shall be taken to control the blowing of litter; household waste, which has been placed in containers for collection, which have been pilfered by animals, which constitutes litter, will not be picked up and will be the responsibility of the occupant.

(5) Rules and Regulations. Curbside pickup shall be subject to such Other rules and regulations as may from time to time be promulgated by resolution of the Bath City Council.

(6) Authority to refuse collections; owner's duty to dispose. The city may refuse to accept for collection any refuse which has been put out for collection in a manner which does not comply with the requirements of this chapter or which is too large to fit into the officially designated bag. The owner of such refuse has the responsibility of promptly disposing of it in a proper manner.

(7) Pay-as-you-throw Program

The City Council shall cause to be established a unit pricing program for the collection of residential municipal solid waste, hereafter referred to as the Pay-As-You-Throw (PAYT) program. The city shall provide for the manufacture of approved containers for residents' use and arrange for retail sale of the containers. To participate in the curbside collection program, residents must place all municipal solid waste into an approved container. Waste not placed into an approved container will not be collected. Waste must be completely enclosed by the container and the container must be tied or otherwise sealed closed. Items too large to fit into the container will not be collected, but will be accepted for disposal or recycling at the landfill upon payment of the appropriate fee, if any.

Fees for purchase of each officially designated bag are initially established as follows:

15 gallon bag \$1.25 each bag

30 gallon bag \$2.00 each bag

These fees may be adjusted by Resolution of the City Council.

The fees for purchase of officially designated bags used in the operation as the Pay-As-You-Throw (PAYT) program shall be placed in a Special Purpose Fund designated by City Council for use in connection with landfill related expenses, including but not limited to remediation and closeout costs, and shall not be placed in the City's General Fund. (7-11-07)

These fees shall be included in Appendix A.

Article 4. Mandatory Recycling

Section 13-50- Purpose; effective date.

The purpose of this Article is to provide for a mandatory recycling program for the City of Bath, said program being a necessary and appropriate exercise of the police power in order to save natural resources, conserve energy, and maximize the capacity of the City of Bath Landfill Facility. Mandatory recycling shall be effective on a date to be determined by resolution of Council.

Section 13-51- Access to recycling facility limited.

Access to the City of Bath Recycling Facility shall be limited to those persons hauling normal household wastes under the City of Bath mandatory curbside pickup program and those commercial haulers hauling commercially generated wastes as provided in Section 13-1(12). Access of all others to the Facility shall be prohibited.

Section 13-52. Separation of recyclable material.

Each resident utilizing the municipal mandatory curbside pickup for normal household waste, and each business enterprise disposing of its waste through commercial hauler, shall be responsible for separating from the normal waste stream, all items determined to be recyclable, by category, said category to be determined by resolution of the Bath City Council. Each separate category of waste shall be properly prepared for pickup in accordance with said rules and regulations.

Section 13-53. Determination of recyclable commodities; rules and regulations. The Council, by promulgation of rules and regulations, shall establish those items which it deems to be recyclable, which items may from time to time be amended, deleted or added to. In addition the Council shall by the promulgation of rules and regulations, determine the proper preparation of these recyclable commodities, its method of collection, and disposition.

Section 13-54. Ownership of recyclable materials.

From the time of placement of recyclable materials at the curbside, or from the time of pickup of commercial recyclable materials by a commercial hauler, such material shall become the sole and exclusive property of the City of Bath. It shall be a violation of this Section for any person, without prior authority from the City of Bath, to collect, pickup, remove or cause to be collected, picked up, or removed, any recyclable material, and each such collection, picking up, or removal, from each individual premises shall constitute a separate and distinct offense.
(Ord. 88-12)

Article 5 - Single Use Carry-Out Bags (11/8/2017)

Section 13-61. Purpose.

It is in the best interest of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine by: discouraging the distribution and use of disposable, single- use, carryout paper shopping bags, prohibition of single-use carry out plastic bags and encouraging the use of reusable shopping bags in stores, as defined below. The purpose of this ordinance is to:

- Reduce litter arising from single use bags;
- Reduce taxpayer expenses to clean-up or otherwise manage litter and its impact;
- Reduce the environmental impact of their manufacture, transportation, and disposal;
- Create a citizenry informed about the impact of plastic in the environment; and,
- Encourage a culture of sustainability and discourage a culture of disposability.

Section 13-62. Authority.

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. seq. as well as the general powers of municipalities to enact police power ordinances.

Section 13-63. Findings.

- Single-use carryout bags have a negative impact on the environment and wildlife; and
- The City believes that the best alternative to single-use carryout bags is the use of reusable bags for shopping, which is accomplished through prohibiting the free distribution of single-use carryout bags by stores, as defined in this section.
- It is important to keep the City of Bath as litter-free as possible to enhance the quality of life for Bath's residents and visitors; and
- Bath is a coastal community with a vested interest in protecting water resources from plastic debris; and

Section 13-64. Definitions.

Single-Use Carryout Bag means a bag other than a reusable bag, as defined below, provided at the check stand, cash register, point of sale or other point of departure from the store for the purpose of transporting food or merchandise out of the establishment. The term *Single-Use Carryout Bag* includes compostable and biodegradable bags, including paper bags, but does not include reusable bags, produce bags, or product bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry

produce, meats, seafood, prescriptions, other food items or merchandise within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

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

- A. Is designed and manufactured to withstand repeated uses over a period of time;
- B. Is washable or made from a material that can be cleaned and disinfected regularly;
- C. If plastic, has a minimum thickness of 2.25 mils, has handles, and has the capability of carrying a minimum of 18 pounds.

Store means all retail establishments and restaurants located within the City of Bath engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale, such as:

- A. A drug store, pharmacy, grocery store, convenience food store, food mart, or other entity 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 hardware store, home improvement supplier, clothing store, print shop, entertainment retailer, personal care product retailer including jewelry, gifts, house wares and crafts.
- C. A farmer's market and/or its tenant participants or other temporary and/or seasonal retail entities.
- D. Fairs, festivals, craft or flea markets, or other events of an infrequent and short-term nature, shall not be considered stores for the purposes of this article.

Section 13-65. Restrictions on Single-Use Carryout Bags.

- A. Prohibition. No store, as defined above, shall provide a single use carryout bag made of plastic that does not meet all the criteria as a reusable bag, as defined above, to a customer at the check stand, cash register, point of sale or other point of departure from the store, for the purpose of transporting food or merchandise out of the establishment.
- B. Single-Use Paper Carryout Bags.
 - 1 A store may make available for sale to a customer a single-use paper carryout bag for a mandatory, minimum charge of five cents (\$0.05) per bag. The charge will increase to ten cents (\$0.10) per bag one year after this ordinance takes effect. The charge will increase to fifteen cents (\$0.15) per bag two years after this ordinance takes effect.

- 2 All monies collected by a store for single-use carryout paper bags under this section shall be retained by the store and used by the store for any lawful purpose.
 - 3 All stores shall post signage at each point of sale clearly indicating the per bag charge for single-use carryout paper bags. This requirement shall not apply to restaurants.
 - 4 Notwithstanding this section, no store may make available for sale a single-use carryout paper bag unless the amount of the sale of the single-use carryout paper bag is separately itemized on the sale receipt.
 - 5 No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).
- C Customer Options. Nothing in this section shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.

Section 13-66. Exemptions

A Store may be deemed exempt from the provisions of this ordinance by the City Manager, in a situation which he determines to be an emergency, threatening and requiring the immediate preservation of the public health or safety.

Section 13-67. Violations and Enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this Ordinance. If the City Manager or his/her designee(s) determines that a violation of this Ordinance has occurred and is the first violation by the establishment within a one-year period, 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 fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period.
Each day that a violation occurs will be considered a subsequent violation.

Section 13-68. Effective Date.

The provisions of this ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-69. Severability.

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

Article 6 - Consumer Packaging (11/8/2017)

Section 13-91. Purpose.

It is in the best interests of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine and the waterbodies within and surrounding the City by prohibiting the use and distribution of polystyrene food service ware and promoting and requiring the use of biodegradable, recyclable, and compostable alternatives. Therefore, the purpose of this Ordinance is to ban the use of polystyrene foam food service ware in order to reduce litter, to minimize the impact on the City's landfill, reduce the necessity to manage litter and the impact of that litter, and reduce the expense to the taxpayers for cleanup and to reduce the environmental impact of the use of polystyrene foam food service ware.

Section 13-92. Authority.

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. Seq. as well as the general powers of municipalities to enact police power ordinances.

Section 13-93. Findings.

- Polystyrene foam food service ware is not biodegradable and the litter that it causes does not decompose over time but remains in the natural environment.
- Polystyrene foam food service ware constitutes a significant adverse environmental impact. It creates problems for the City's waste management programs, litters the City's streets, parks, public places, and open spaces, clogs storm drains, culverts, and catch basins, and creates significant expense to remove the litter, while damaging terrestrial and marine habitats.
- National and international organizations have acknowledged the threat of chlorofluorocarbons to the earth's atmosphere and depletion of the ozone layer.
- Products which are degradable, recyclable, and compostable offer environmentally sound alternatives to the non-degradable and non-recyclable products currently used. The use of these products and the banning of polystyrene foam food service ware provides a lesser danger to the natural environment, resulting in less environmental damage and reduced costs.

Section 13-94. Definitions.

As used in this article, the following terms have the following meanings:

Biodegradable means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature, within a reasonably short period of time after customary disposal, and is consistent with the materials accepted at the composting facility used by the City of Bath.

Disposable food service ware means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for one-time use and on, or in, which any restaurant or retail food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants or retail food vendors.

Food packager means any person who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.

Prepared food means food or beverages that are served at the food vendor's location having been previously prepared elsewhere or are prepared at the vendor's location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not mean raw uncooked meat or eggs. Prepared food may be eaten either on or off premises.

Polystyrene foam means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam®; a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene."

Restaurant, for purposes of this Article, means any establishment located within the City of Bath that sells prepared foods for consumption on, near, or off its premises by a customer.

Retail food vendor means any person, restaurant, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience or variety store or a delicatessen located within the City of Bath which sells prepared foods.

Section 13-95. Prohibitions.

- (a) No retail vendor shall serve or sell prepared food in polystyrene foam containers and shall not package meat, eggs, bakery products or other food in polystyrene foam containers.
- (b) No food packager shall package meat, eggs, bakery products or other food in polystyrene foam containers.
- (c) The City shall not use polystyrene foam food or beverage containers at any City facility or

City- sponsored event.

- (d) No City department or facility shall purchase or acquire polystyrene foam food or beverage containers.
- (e) All parties who contract with the City shall be prohibited from using polystyrene foam food and beverage containers in City facilities or on City-funded projects within the City.

Section 13-96. Exemptions.

- (a) The sale and packaging of raw meat and live seafood is exempt from the provisions of this article.
- (b) Retail vendors, food packagers, City departments, City facilities and contractors shall be exempt from the provisions of this article, in a situation deemed by the City manager to be an emergency for the preservation of the public peace, health or safety.
- (c) Retail vendors that receive items, pre-packed in polystyrene foam food or beverage containers, packaged outside of the City of Bath, may re-sell items without repackaging those items.

Section 13- 97. Required biodegradable and compostable disposable food service ware.

- (a) All food vendors using any disposable food service ware will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application. Food vendors are strongly encouraged to provide reusable food service ware in place of disposable food service ware.
- (b) All City facilities will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application.
- (c) City contractors and vendors doing business with the City will use biodegradable food service ware in City facilities or on City projects within the City of Bath, unless they can show an affordable biodegradable or compostable product is not available for a specific application.

Section 13-98. Violations and enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this ordinance. If the City Manager determine(s) that a violation of this ordinance has occurred and is the first violation by the establishment within a one-year period, he/she shall issue a written warning notice to the food vendor 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 fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period. Each day that a violation occurs will be considered a subsequent

violation.

Section 13-99. Effective date.

The provisions of this Ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-100. Severability.

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