

Ordinance to Regulate the Sale and Distribution of Single-Use Plastic Foodware



Town of York, Maine

Most Recently Amended: May 18, 2024

Prior Dates of Amendment:

Date of Original Enactment: May 18, 2024

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to adopt/amend this Ordinance: May 18, 2024.

Certified by the Town Clerk:

(signature)

on

(date)

5/23/2024

Ordinance to Regulate Sale and Distribution of Single-Use Plastic Foodware

SECTION 1. PURPOSE AND INTENT

This ordinance aims to reduce the procurement, sale, and distribution of single-use plastics in the Town of York.

The production, consumption and end of life management of disposable foodware have significant environmental impacts including substantial greenhouse gas emissions, litter, marine pollution, environmental contamination, harm to wildlife, the depletion of precious natural resources, decrease of biodiversity, and the generation of hard-to-manage waste.

1. Due to inefficiencies in the recycling system and material composition, many plastics are unable to be properly recycled, leaving them to harm our recycling systems, inundate landfills, and litter our streets. Plastic is not biodegradable and will eventually break down into microplastics that turn up in our food, air, water, and within living organisms themselves. Exposure to microplastics can lead to severe health consequences, such as neurotoxicity, increased cancer risk, and immune deficiencies.^{1, 2}
2. York has demonstrated a commitment to environmental leadership and has been a model for other towns, cities, and the State of Maine. The Town of York restricted the distribution of single-use carry out bags in 2015 and Polystyrene Foam Food Containers in 2019. The State of Maine followed with statutes aim to reduce both bags and polystyrene.
3. This Ordinance is in line with York's Comprehensive Plan, covering four goals:
 - Goal 5: Safeguard agricultural and forest resources from development that threatens those resources,
 - Goal 12: Manage impacts of tourism and ensure benefits to residents,
 - Goal 14: Strengthen, expand, and support community-oriented business opportunities, and
 - Goal 17: Implement policies to reduce greenhouse gas (GHG) emissions according to the Town's commitments; and directly aligns with York's Climate Action Plan Goal 6.1 Reduce municipal solid waste (MSW): to pass ordinance to limit use of single-use water bottles, take-out containers and other plastics that are not biodegradable; and will help to reduce greenhouse gas emissions, in alignment with the Town's Global Covenant of Mayors commitment to become net-zero by the year 2050.

SECTION 2. AUTHORITY

This ordinance is adopted pursuant to the Town's home rule authority granted under Article VIII-A of the Maine Constitution, and Title 30-MRSA 3001.

SECTION 3. DEFINITION

Foodware means plastic straws, stir sticks, and single-use plastic utensils.

Single-Use Plastic means items that are designed to be used once and then disposed of but may include other plastics or coated materials that are readily discarded and unable to sustain long-term or multiple uses.

Reusable Foodware means cups, cutlery, straws and other items that are designed for prolonged use, including, but not limited to, ceramic, glass, porcelain, and metal food and beverage ware.

Third-Party Certification means an endorsement that most reliably describes whether a product is plastic-free, low in toxins, and capable of breaking down naturally in the environment. Acceptable third-party certifiers are Biodegradable Products Institute (BPI) or Compost Manufacturing Alliance (CMA).

Healthcare Facilities mean places that provide healthcare to the public. Healthcare Facilities includes hospitals, clinics, nursing homes, and in-patient care centers.

Compostable Foodware means foodware that is natural fiber-based and can completely break down into natural elements without leaving toxic residue in a relatively short period of time in a commercial compost facility. Materials may include paper, wood, sugar cane, or bamboo. This does not include compostable plastics, which release greenhouse gases and other toxins when degrading, unless certified by a third-party certifier.

Commercial Compost Facility means a large-scale composting facility designed to handle a high volume of organic waste, designed to break down biodegradable materials.

SECTION 4. STANDARDS

Each Food and Beverage Provider located in the Town of York, and any municipally sponsored event shall comply with this Ordinance.

- B. The sale and distribution of single-use plastic foodware, such as plastic straws, stir sticks, single-use plastic utensils, shall be prohibited in stores, full or limited-service restaurants, coffee and tea shops, cafeterias, caterers, food delivery or services, or Town sponsored events located or operating within the Town of York.
- C. Reusable food ware shall be used for dining-in where washing facilities exist, including restaurants and cafeterias.
- D. Third party certified compostable foodware is allowed when reusables are not available or when they are impractical for take-out purposes.
- E. If using compostable materials, every effort shall be made to collect and compost items that are deemed appropriate through a Town contracted commercial composting program, if available.

SECTIONS 5. EXCEPTIONS

- A. Nothing in this Ordinance shall conflict or be construed to conflict with the Americans with Disabilities Act or any other applicable law concerning the rights of individuals with disabilities to include the restriction, or be construed restriction, the provision by Food Facilities of Disposable Non-Compostable straws to individuals who may request the use of Disposable Non-Compostable straws to accommodate medical needs or disabilities.
- B. Health Care facilities are exempt but are encouraged to comply, to accommodate the care of patients whose treatments and procedures may require such materials under this ordinance.
- C. Temporary exemptions due to an emergency are automatic without the submission of a request for an exemption. An emergency is defined as a sudden, unexpected occurrence posing a clear

and imminent danger that requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Examples of an emergency include, but are not limited to natural disasters, emergencies due to the release of hazardous materials, emergencies associated with loss of power and/or water, or emergency medical response.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.
- B. Upon finding a violation, the CEO shall speak with or notify in writing the person/business responsible for the violation indicating the nature of the violation and order the action necessary to correct it. A summary of each warning and a copy of such written notices shall be maintained as a permanent record.
- C. The Selectboard, upon notice from the Code Enforcement Officer, is hereby authorized to take actions to enforce this article:
- D. If in violation of any of the requirements of this article after a written notice has been issued, the Selectboard may impose the following penalties payable by the Operator of the Shop:
 - 1. A fine not exceeding one hundred dollars (\$100) for the first violation that occurs following written notice.
 - 2. A fine not exceeding two hundred dollars (\$200) for the second violation that occurs following written notice.
 - 3. A fine not exceeding five hundred dollars (\$500) for the third and any subsequent violation(s) that occurs following written notice.
 - 4. All fines collected pursuant to this article shall be deposited into the general fund of the Town of York, to assist the department with its costs of implementing and enforcing the requirements of this article.
- E. A fine may be imposed for each day a violation occurs as determined by the Selectboard.
- F. Any Operator who receives a written notice or fine pursuant to this section may submit an administrative appeal. An administrative appeal or variance shall be filed within 30 days of action taken by the official charged with the administration of this Ordinance. Thirty (30) days is defined to mean the date the official written notification of decision is issued by the Code Enforcement Officer or the Board.

SECTION 7. APPEALS

Those in noncompliance have the right to appeal this notice of Violation and Order for Corrective Action and may appeal it in whole or in part. The right to appeal should be addressed to the York Board of Appeals. An appeal shall be filed within 30 days of the action taken by the Code Enforcement Officer.

Any decision, action, or inaction pertaining to this Ordinance may be appealed to the Board of Appeals. Any appeal must be filed within 30 days of the decision or action being appealed.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect one year following the date of adoption by the voters to allow establishments time to make necessary adjustments to bring operations in compliance with the law.

SECTION 9. SEVERABILITY

Should any portion of this Ordinance be held by the courts to be invalid, this shall not affect the validity of remaining portions of this Ordinance. Each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

**SUNSET CLAUSE: This ordinance shall remain valid until December 31st, 2026. After this date this ordinance shall be repealed. It is expected that all applicable sections of this ordinance will be continued, with or without modification. This Sunset Clause is provided to allow evaluation of this ordinance, the ordinance's effectiveness, and to adjust if needed without causing adverse impacts.*