



## Committee of the Whole Report For the Meeting of October 15, 2020

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**To:** Committee of the Whole **Date:** October 8, 2020  
**From:** Philip Bellefontaine, Director Engineering & Public Works  
**Subject:** Checkout Bag Regulation Bylaw Adoption

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### RECOMMENDATION

That Council consider adoption of Checkout Bag Regulation Bylaw 20-205 at the April 15, 2021 Council meeting.

### EXECUTIVE SUMMARY

The City of Victoria introduced the first municipal single-use item regulation in British Columbia with the adoption of its Checkout Bag Regulation Bylaw in January 2018. Shortly after adoption, the validity of the bylaw was challenged by the Canadian Plastic Bag Association, an industry lobbying group, noting the purpose of the bylaw required provincial approval. In 2018, BC Supreme Court upheld the validity of the bylaw but that decision was overturned in July 2019 by the BC Court of Appeal.

Despite the ruling of the BC Court of Appeal that rendered the bylaw of no force and effect, City staff noted a high degree of business compliance with the bylaw. Monitoring of the bylaw six months after it came into force indicated that of 137 businesses visited 100% were compliant with the provision prohibiting the use of plastic checkout bags and 68% were compliant with the requirement to charge a fee for paper and reusable bags. A subsample of 20 of these businesses were audited in October 2019 after the BC Court of Appeal ruling and found that 100% of businesses visited were still not distributing plastic checkout bags, while 40% of businesses maintained the fee. The bylaw also set a regulatory template that has been replicated by numerous communities across Canada.

In January 2020, following the outcomes of the legal challenge, the initial bylaw was amended for the purpose of *protection of the natural environment* and Council gave three readings to the *Checkout Bag Regulation Bylaw No. 20-025* and directed it be submitted to the Minister of Environment and Climate Change Strategy for approval. That approval occurred on March 11, 2020 by way of the correspondence from Minister Heyman attached as Appendix A. Shortly following approval the Province declared a state of emergency in response to the COVID-19 pandemic and final reading of the bylaw was put on hold to accommodate provincial health orders and to allow time for business health and safety procedures to be understood and established. Since the state of emergency was first issued many businesses in Victoria have identified practices to allow customers to safely use reusable checkout bags.

On September 12, 2020 the Minister of Environment and Climate Change Strategy publicly announced a number of initiatives to prevent plastic pollution. This included approval of municipal single use item bylaws and a forthcoming new regulation under the Community Charter allowing local governments to ban certain types of plastic products.

Following the Minister's announcement approving the City of Victoria's Checkout Bag Regulation Bylaw, City staff held a series of conversations with business associations and major retailers in Victoria (Save-On-Foods and London Drugs) to identify considerations regarding adoption and enforcement of the bylaw. Business representatives noted that:

- Most businesses in Victoria continue not to distribute plastic checkout bags.
- Some businesses require time to make the necessary procedural changes to comply with the bylaw.
- A clear date for enforcement helps businesses plan to be compliant.
- City education and awareness supports are encouraged.
- The incremental burden of complying with the bylaw in addition to other health and safety measures for COVID-19 is most acute for food service businesses undertaking small cost transactions (e.g. fast food).
- Reusable checkout bag alternatives for restaurant delivery do not currently exist.

Overall, business representatives indicated support for moving ahead with the adoption of the Checkout Bag Regulation Bylaw given previous experience and level of compliance with the regulatory changes but requested advanced notice to come into compliance.

It is important to note that although the initial bylaw included transition provisions and a delayed effective date to allow businesses time to make the necessary changes, the current version of the bylaw cannot be amended to add a future in-force date without resubmitting to the province for approval.

Two options are presented below for Council's consideration in addressing the reintroduction of the Checkout Bag Regulation Bylaw.

#### *Option 1 – Notification of Future Adoption (recommended)*

Option 1 proposes that Council consider conducting the final reading of the bylaw on a set date in the future. This will provide clarity and certainty to businesses of the intent to adopt and enforce the bylaw while providing a defined period of time for them to prepare and come into compliance as well as accommodate concerns related to the incremental burden of compliance noted from the food service sector. Staff recommend that adoption occur in 6 months time at the April 15, 2021 Council meeting.

#### *Option 2 – Immediate Adoption*

Option 2 proposes that Council consider conducting the final reading of the bylaw at the Council meeting on October 22, 2020.

#### *Accessibility Considerations*

The current version of the Checkout Bag Regulation Bylaw incorporates recommendations previously raised the Accessibility Working Group to exempt bags used to contain *seafood* (previously referenced in the bylaw as *fish*).

### *Financial Plan Considerations*

The recommendations in this report can be accommodated into regular operations and therefore do not have implications to the Financial Plan.

Respectfully submitted,



Rory Tooke  
Manager, Sustainability, Assets &  
Support Services



Philip Bellefontaine  
Director, Engineering and Public Works

**Report accepted and recommended by the City Manager:**



**Date:**

October 8, 2020

### **List of Attachments**

Appendix A – Letter from Minister Heyman approving Checkout Bag Regulation Bylaw 20-025