

ANNEX B: DETAILED COMMENTARY AND REVIEW OF THE DRAFT CHECKOUT BAG REGULATION BYLAW

Table B1. Draft Bylaw Retailer and Staff Commentary.

CATEGORY	ISSUE	RETAILER / STAKEHOLDER COMMENTARY	CITY ASSESSMENT
Mandatory Bag Costs	Charging for Bags	Several retailers expressed concerns about charging for bags and the impacts that may have on customer loyalty/preference.	Bag fees required by the bylaw should be considered a regulatory requirement, and equally applied across the community.
	Minimum Price	Several retailers expressed a desire to set lower mandatory fees for paper and reusable bags.	<p>The City's rationale has been that low bag fees will likely not incentivise retailers and consumers to avoid excessive paper and reusable bag consumption and may result in negative sustainability impacts.</p> <p>Bag prices are intended to help set the value of the bags at appropriate levels so that they are not wasted, but reused and managed responsibly. Retailers able to obtain bags at less cost than the mandatory price may find additional motivation to provide bags with higher sustainability benefits, such as recycled / recyclable materials. That said, starting with lower initial costs has already been established for paper, and could also be applied to reusable bags.</p> <p>Used reusable bags can be collected, washed and provided to consumers for free, which is intended to help retailers incentivise the creation of support programs for low-income or under-prepared shoppers.</p>
	Prohibited Bag Giveaway	The inability to give away free reusable bags under the terms of the draft bylaw was unpopular with a few retailers.	Avoiding free reusable bags is a central strategy to avoid any shift to excessive reusable bag consumption. Under the terms, the retailers could provide discounts as they wish, as long as the bag charge was reflected in the bill/receipt.
	Competition Issues	One retailer and a regional representative indicated that the	The proposed minimum charge per bag does not constitute price fixing and, therefore, is not contrary to the competition act.

		mandatory pricing contradicted provisions in the Competition Act.	
	Awkward Paper Bag Price	Paper bag price of 12 cents is difficult to achieve with the elimination of pennies, and a price of 10 or 15 cents was suggested	Normally, paper bags will only be purchased with other items, so the issue of a penny restriction is likely not a common transactional burden. If paper bags are purchased alone, a price of 15 cents avoids the issues related to the phase-out of pennies.
Reusable Bag Design	Design Specifications	<p>Several retailers expressed confusion as to how to choose amongst reusable bag options to meet the defined bylaw bag specifications (ie. reusable bags designed for a minimum of 125 uses to carry 10 kg over 50 metres), and avoid enforcement penalties.</p> <p>Few retailers also expressed a concern with the “machine washable” text in para 2 of the draft bylaw, and recommended that “machine” be removed from the text since certain types of reusable bags were well designed, but made from materials (eg. coated non-woven polypropelene) and not suitable for machine washing, but could still be hand washed without impacting durability</p>	<p>The reusable bag performance specification (125 uses, etc) was intended as guidance to help retailers select bags designed for durability and high reuse rates, and is consistent with durability design targets established by other jurisdictions.</p> <p>Arguably, the specification alone is not enough to enable retailers and suppliers to design, judge or chose a bag amongst options, unless accompanied by a test, certification or performance standard.</p> <p>Standardized test procedures and performance requirements should be created to help the industry respond with high-performance, durable, and sustainable reusable bag designs.</p> <p>Staff and Council have already committed to further refinement of the bag design specifications, in the form of a “sustainable design specification”, which will require additional analysis and review. Until that time, relaxing this requirement may be considered supportable.</p> <p>Modification of the term “machine washable” to “washable” is likely supportable to promote good hygiene and bag durability, but not impose potential damage from machine washing.</p>

Timeline	Implementation Timeline	Several retailers expressed interest in delaying the implementation date, or enforcement timings, or even delaying the timings associated with achieving bag design standards (eg. post consumer recycled content, reusable bag specifications, etc) to allow more time to design and use up stocks of existing bags that would not meet bylaw requirements.	Relaxation of one or portion of the bylaw elements could help retailers meet the spirit of the regulation, while adjusting to the new terms. Delaying components of the bylaw could be considered confusing, so a fair and consistent approach is required.
Enforcement Considerations	Penalties and Timelines	Many retailers expressed concerns as to the City's enforcement of a "person" who contravenes the bylaw (para 5 and 6). Some retailers requests consideration of what elements of the bylaw should be enforced, and if delays to enforcement could be further explored. The use of warnings, and lesser penalties was also proposed.	The bylaw language (use of the term "person") is consistent across the City's bylaws, which allow for individuals or corporations to be held accountable for bylaw infractions. The City would always prefer 100% compliance of the regulation, which would require no active enforcement. That said, the City must be able to enforce its regulations using the predefined suite of charges and disincentives. Relaxation of the fee for individuals is an option to explore in the bylaw amendment.
Bag Exemptions	Additional	A few retailers requested exemptions for specific, niche plastic bag types including those for live fish, and large bedding. The City also raised the potential for exemptions related to bag size, including those for small paper bags.	Additional exemptions at this time could be considered supportable, which could be related to bag size, and material.
Used Reusable Bag Clarifications	Take-back programs	Many retailers had questions/comments related to any proposed bag take-back programs, to return reusable bags for shoppers in need.	The requirement for washing and sanitizing used bags is considered a reasonable preparation before any bag was introduced for reuse.
Education and Awareness Building	Priority	All parties agreed that education and awareness for all residents and visitors is a key component of planning that will be a significant factor in any transition to the new regulation, smooth or otherwise.	Staff will deliver an education and awareness campaign starting in early 2018 to educate and help normalize reusable bag use.

Regionality	Consistency	All stakeholders share the desire for a consistent and effective regulation across region, or even the province.	The City continues to work with and support commentary from neighbouring municipalities, and has written correspondence to nearby government stakeholders to determine if regional solutions are likely.
Potential Unintended Consequences	Excessive Bag consumption.	Many stakeholders expressed concerns posed by any ban on plastic bag forcing a shift towards excessive reusable or paper bags, and supported mechanisms to help avoid such an effect.	Pricing mechanisms are the main lever to reduce a shift to excessive paper and reusable bag consumption. Education and information is also key to help make the checkout bag alternatives as sustainable as possible.
Bin Liners	Potential excessive Use due to plastic bag ban.	Plastic industry representatives suggested that a plastic checkout bag ban could lead to excessive consumption of bin-liner bags and additional plastic bag waste.	The bylaw intends to reduce unsustainable business practice, by eliminating and controlling the provisions of checkout bags that quickly become waste after one or only a few uses. Our City grey bin program, together with the our modern wet organic waste diversion program can greatly reduce wet landfill waste volumes, and remove any need for household bin bags. Dry, loose and safe landfill garbage in grey bins is completely acceptable and will help reduce any subsequent and excessive bin-liner bag consumption/waste.
Restaurant Industry	Representative Proposal	BC Restaurant and Foodservices Association (BCRFA) recommends (letter November 30, 2017) that the City exempt restaurants for 1 year following overall implementation, accompanied with a hearing to support additional opportunities for dialogue, and then review the need to regulate plastic bags for takeout or food delivery.	Restaurant takeaway / delivery plastic bag use is somewhat unique to control hot and wet materials. Packaging and transport containers can help mitigate any shift away from plastic bags, while managing risk of spillage and risks of increased single-use packaging. Many restaurants already use paper bags and compostable packaging to transport hot food, while reducing landfill waste and packaging. Ongoing dialogue with restaurant stakeholders should continue to determine what education and ideas are required to minimize waste and packaging, while still meeting the bag bylaw terms.