

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2953

A Bylaw to Regulate the Provision of Checkout Bags

THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited as the “Checkout Bag Regulation Bylaw, 2019, No. 2953”.

2. DEFINITIONS

In this Bylaw:

“Checkout Bag” means any bag that is:

- (a) intended to be used by a customer for the purpose of transporting items purchased or received by the customer from the business providing the bag; or
- (b) used to package food for take-out or delivery;

and includes Paper Bags, Plastic Bags, or Reusable Bags.

“Business” means any person, organization, or group engaged in a trade, business, profession, occupation, calling, employment or purpose that is regulated under the Business Licence and Regulation Bylaw, 2013, No. 2810 and, for the purposes of section 3, includes a person employed by, or operating on behalf of, a Business.

“Paper Bag” means a bag made out of paper and containing at least 40% of post consumer recycled paper content, and displays the words “Recyclable” and “made from 40% post-consumer recycled content” or other applicable amount on the outside of the bag, but does not include a Small Paper Bag.

“Plastic Bag” means any bag made with plastic, including biodegradable plastic or compostable plastic, but does not include a Reusable Bag.

“Reusable Bag” means a bag with handles that is for the purpose of transporting items purchased by the customer from a Business and is

- (a) designed and manufactured to be capable of at least 100 uses; and
- (b) primarily made of cloth or other washable fabric.

“Small Paper Bag” means any bag made out of paper that is less than 15 centimetres by 20 centimetres when flat.

3. CHECKOUT BAG REGULATION

- (1) Except as provided in this Bylaw, no Business shall provide a Checkout Bag to a customer.
- (2) A Business may provide a Checkout Bag to a customer only if:
 - (a) the customer is first asked whether he or she needs a bag;
 - (b) the bag provided is a Paper Bag or a Reusable Bag; and
 - (c) the customer is charged a fee not less than
 - (i) 15 cents per Paper Bag; and
 - (ii) \$1 per Reusable Bag.
- (3) For certainty, no Business may:
 - (a) sell or provide to a customer a Plastic Bag; or
 - (b) provide a Checkout Bag to a customer free of charge.
- (4) No Business shall deny or discourage the use by a customer of his or her own Reusable Bag for the purpose of transporting items purchased or received by the customer from the Business.

4. EXEMPTIONS

- (1) Section 3 does not apply to Small Paper Bags or bags used to:
 - (a) package loose bulk items such as fruit, vegetables, nuts, grains, or candy;
 - (b) package loose small hardware items such as nails and bolts;
 - (c) contain or wrap frozen foods, meat, poultry, or seafood, whether pre-packaged or not;
 - (d) wrap flowers or potted plants;
 - (e) protect prepared foods or bakery goods that are not pre-packaged;
 - (f) contain prescription drugs received from a pharmacy;
 - (g) transport live fish;
 - (h) protect linens, bedding, or other similar large items that cannot easily fit in a Reusable Bag;
 - (i) protect newspapers or other printed material intended to be left at the customer's residence or place of business; or
 - (j) protect clothes after professional laundering or dry cleaning.

- (2) Section 3 does not limit or restrict the sale of bags, including Plastic Bags, intended for use at the customer's home or business, provided that they are sold in packages of multiple bags.
- (3) Notwithstanding section 3(2)(c) and 3(3)(b), a Business may provide a Checkout Bag free of charge if:
 - (a) the Business meets the other requirements of section 3(2);
 - (b) the bag has already been used by a customer; and;
 - (c) the bag has been returned to the Business for the purpose of being re used by other customers.
- (4) Section 3 does not apply to a Checkout Bag that was purchased by a Business prior to the first reading of this Bylaw.

5. OFFENCE

- (1) Every person who contravenes any provision of this Bylaw commits an offence which is punishable in accordance with the Community Charter.
- (2) Every person who is guilty of an offence under this Bylaw is liable to a fine of not more than \$10,000.
- (3) A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- (4) This Bylaw may be enforced by the issuing of a ticket for contravention in accordance with the Ticket Information Utilization Bylaw, 2005, No. 2619 or the Bylaw Notice Enforcement Bylaw, 2014, No. 2839, as may be amended or replaced from time to time.

6. SEVERABILITY

- (1) If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

7. TRANSITION PROVISIONS

- (1) Section 3(2)(c)(i) is amended by deleting "15 cents" and substituting "25 cents".
- (2) Section 3(2)(c)(ii) is amended by deleting "\$1" and substituting "\$2".
- (3) Section 4(4) is repealed.

8. EFFECTIVE DATE

This Bylaw comes into force on January 1, 2020, except section 7, which comes into force on July 1, 2020.

READ A FIRST TIME this 21st day of January 2019.

READ A SECOND TIME this 8th day of July 2019.

READ A THIRD TIME this 8th day of July 2019.

ADOPTED on the _____ day of _____ 2019

BARBARA DESJARDINS, MAYOR

ANJA NURVO, CORPORATE OFFICER

DRAFT