



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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Legislation Details (With Text)

File #:	19-009	Version:	1	Name:	
Type:	Staff Report	Status:		Passed	
File created:	1/2/2019	In control:		Council	
On agenda:	1/21/2019	Final action:		1/21/2019	
Title:	Checkout Bag Regulation Bylaw, Staff Report DEV-19-005				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Appendix A - Checkout Bag Bylaw, 2. Appendix B - Timeline, 3. Appendix C - Workplan and Budget				

Date	Ver.	Action By	Action	Result
1/21/2019	1	Council	approved	Pass

REQUEST FOR DECISION

DATE: January 14, 2019 Report No. DEV-19-005

TO: Laurie Hurst, Chief Administrative Officer

FROM: Tricia deMacedo, Policy Planner, and Bill Brown, Director of Development Services

SUBJECT:
Checkout Bag Regulation Bylaw

RECOMMENDATION:

That Council give first reading to the Checkout Bag Regulation Bylaw, No.2953 (Appendix A) and endorse the workplan, timeline, budget and engagement strategy as outlined in Staff Report DEV-19-005.

RELEVANT POLICY:

Community Charter

STRATEGIC RELEVANCE:

Ensure processes for business and development are clear and consistent.

BACKGROUND:

Enclosed with this Staff Report are the following Appendices:

Appendix A: Checkout Bag Regulation Bylaw, 2019, No. 2953
Appendix B: Checkout Bag Bylaw Implementation Timeline
Appendix C: Checkout Bag Bylaw Workplan and Budget

At the regular Council meeting of December 3, 2018, Council directed staff to prepare a timeline, work plan, engagement plan and budget related to regulating retail checkout bags, using the City of Victoria's Checkout Bag Regulation Bylaw as a model for implementation. The purpose of this Staff Report is to present these items to Council for their approval along with a draft of the Checkout Bag Regulation Bylaw for discussion.

Proposed Bylaw

The purpose of the proposed Bylaw is to reduce the number of single-use checkout bags of all kinds that are distributed in the municipality. Although plastic bags are commonly considered to be the most obvious example of unsustainable checkout bags, paper bags and biodegradable bags also have an environmental impact, primarily through their production. All checkout bags contribute to the amount of waste generated in the municipality and thereby municipal services and costs. Plastic and paper bags are commonly littered items, and can become entangled in vegetation or contribute to plugging of catch basins and storm drains. Plastic bags and biodegradable bags in particular cannot easily be recycled and often contaminate waste streams such as municipal kitchen waste collection or paper recycling.

The proposed Bylaw requires that businesses no longer distribute free checkout bags to customers unless (a) the bag is paper or reusable, and (b) the customer is charged for the bag. Bag fees are transitioned over time but ultimately reach \$0.25 per paper bag and \$2.00 for a reusable bag. The purpose of the bag fees is to prevent the unintended consequence of having customers switch to wholesale use of paper bags, which also have a large environmental footprint, or to having reusable bags become a disposable item. For these same reasons, the Bylaw also specifies the recycled content required for any paper bags distributed and the construction of reusable bags.

The Bylaw contains a number of exemptions for certain items for which a reusable bag would be inappropriate or a health concern (e.g. small loose items, meat and seafood, and large bulky items) and allows for a 'small' paper bag (15 cm x 20 cm) to be used under all conditions, without a fee.

The Bylaw also contains ticketing provisions should a business be persistently in non-compliance. Staff would like to emphasize however, that although the bylaw is regulatory in nature, the priority for implementation should be on education and awareness. Community Safety Services (CSS) has been consulted as to the impact on their department as a result of implementation of the Checkout Bag Regulation Bylaw. Staff advise that as compliance has been found to be generally high in the City of Victoria after only 6 months of the bylaw, the Township will likely experience the same results here, with little to no impact on the need for bylaw enforcement. Should this not be the case, CSS will bring forward the issue to Council for discussion.

Timeline

The proposed timeline (Appendix B) includes a six month period of transition after the Bylaw comes into force, where the fees for paper and reusable bags would be \$0.15 and \$1.00 and businesses would be able to use their existing stock of plastic bags purchased prior to first reading of the Bylaw. This is similar to the approach taken in Victoria, where businesses have just completed this 'grace' period and are now required to adhere fully to the Bylaw and charge a higher price for paper and reusable checkout bags. The District of Saanich recently gave first and second reading to an amended version of the bylaw that would accelerate the transition by removing this grace period, pending the results of public engagement. The District of Saanich's timeline is otherwise very similar

to the proposed Esquimalt bylaw, which will provide some consistency to both businesses and shoppers in the region.

Following first reading, staff propose a period of public engagement take place during the summer when the weather is conducive for pop up engagement sessions outdoors near shopping centres and events. After final reading of the Bylaw at the end of the summer, there would be a short period of education and awareness-building prior to the implementation date of January 1, 2020. During this time, businesses would be encouraged to begin the transition towards complete elimination of free checkout bags. After January 1, 2020 the Bylaw would take effect.

Another consideration that has been factored into the proposed timeline is the legal action filed by the Canadian Plastic Bag Association (CPBA) in the BC Court of Appeal against the City's bylaw. The CPBA is appealing the decision made in July 2018 regarding the authority that the City has to enact such a bylaw. At this time, the CPBA has not filed any arguments with the Court, however, it will not be deemed inactive until July 2019 and abandoned if no action has been taken by January 2020. Therefore withholding final enactment until January 2020 is a prudent measure.

ISSUES:

1. Rationale for Selected Option

The proposed Checkout Bag Regulation Bylaw (Appendix A) is essentially almost identical to that used by the City of Victoria as well as the bylaw proposed for the District of Saanich (first and second reading January 7, 2019). This Bylaw has already withstood a court challenge and has demonstrated its effectiveness through the level of compliance seen by City of Victoria businesses. The benefits to business and customers of having the same regulations in Esquimalt as other core municipalities outweighs the benefit that may come with altering definitions, bag fees, sizes, etc. In addition, staff have communicated with the Retail Council of Canada and they also would prefer consistent regulations. Staff have also met with the President of the Esquimalt Chamber of Commerce.

2. Organizational Implications

The majority of the consultation and educational initiatives will be led by Development Services staff. No additional staff resources have been requested for this initiative; however, staff resources for other projects may need to be reduced during the engagement period. Community Safety Services has not indicated that the initiative will have much impact on staff time for bylaw enforcement. Communications staff will be required to assist with some of the messaging during both the engagement and education periods.

3. Financial Implications

The estimate for consultation and educational activities following first reading of the Bylaw will cost approximately \$3000.00 (Appendix "C"). Staff propose that all the consultation and education be done without contracting additional services.

4. Sustainability & Environmental Implications

The purpose of the proposed Bylaw is to reduce waste and litter of all kinds of bags and normalize the use of reusable bags in the municipality. The bag fees in the Bylaw will ensure that reduction in the use of plastic checkout bags does not cause a significant increase in the use of paper bags or an excessive use of reusable bags, both of which also have environmental impacts associated with their production and end-of-life disposal.

5. Communication & Engagement

The Township can advantageously draw from the experience in the City of Victoria with respect to effective engagement and education planning. Council, in their deliberations of December 3, 2018, stated that they would like engagement to be thorough, especially with businesses. This fits well with information gained from Victoria, where it has been found that consumers are generally very receptive to the changes, while businesses can have a harder time adjusting. City of Victoria staff advise that it is extremely important that the municipality take ownership of the bylaw in messaging around the regulations. This is in order that employees and businesses are not perceived as responsible for imposing the regulations.

The first phase of engagement (March 2019 to end of June 2019) would follow first reading of the Bylaw. The objectives of this phase would be:

- To gain feedback from Esquimalt businesses and other stakeholders on the proposed draft Bylaw and timeline for implementation.
- To build awareness with the public, business, residents and tourist representatives regarding the important aspects of the regulation.

Engagement techniques proposed for this phase of engagement include a stakeholder notification list, website information, social media posts, individual meetings with stakeholder groups, pop up sessions, an online survey, posters, articles, and open house. Stakeholders include Esquimalt residents, businesses (retailers, food services, etc.), employees, charities and non-profits, youth and shoppers.

The second phase of engagement would follow final reading of the Bylaw and would take place during the fall and early winter of 2019. The objectives of this phase of engagement will be:

- To ensure that impacted businesses have all the resources they need to implement the Bylaw.
- That retailers and food services are aware of all the regulations and the timeline for implementation.
- That the public is aware of the impending changes and why they are being implemented.

Engagement techniques proposed for this phase include newspaper ads, business toolkits, pop up sessions, posters, social media, website updates, notification list, and written articles. Because most residents will have shopped in Victoria or be aware of the City's bylaw, the scope and time period for education have been reduced from that conducted in Victoria.

ALTERNATIVES:

1. That Council give first reading to the Checkout Bag Regulation Bylaw, 2019, No. 2953 (Appendix A) and endorse the workplan, timeline, budget and engagement strategy as outlined in Staff Report DEV-19-005.
2. That Council amend Bylaw 2953 to eliminate the transition provisions as follows:
 - Amend section 3(2)(c)(i) by deleting "15 cents" and substituting "25 cents";
 - Amend section 3(2)(c)(ii) by deleting "\$1" and substituting "\$2";
 - Delete section 7 in its entirety; and
 - Amend section 8 so that it reads "This Bylaw comes into force on January 1, 2020"

and to give first reading and endorse the workplan, timeline, budget and engagement strategy as amended.

3. That Council provide alternative direction to staff.