



REPORT

Report Date: November 24, 2020
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Meeting Date: December 9, 2020
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TO: Standing Committee on Policy and Strategic Priorities

FROM: General Manager of Engineering Services, in consultation with Director of Legal Services and Chief Licence Inspector

SUBJECT: Single-Use Items: New Date for Enforcing Shopping Bag and Beverage Cup By-laws Due to COVID-19 Pandemic

RECOMMENDATION

- A. THAT Council approve, in principal, proposed amendments to the License By-law (No. 4450), as set out in:
 - i. Appendix A, concerning shopping bags;
 - ii. Appendix B, concerning single-use beverage cups.
- B. THAT the Director of Legal Services be instructed to bring forward for enactment by-laws generally in accordance with Appendices A and B.

REPORT SUMMARY

The COVID-19 pandemic is having unprecedented economic impacts on businesses and residents, and the current second wave and associated restrictions are exacerbating these challenges. The single-use item by-laws for shopping bags and disposable cups come into effect on January 1, 2021. While the business community generally supports the City's single-use item by-laws, they have recently expressed significant concerns regarding the timing of enforcing the by-law requirements associated with shopping bags and disposable beverage cups. Many in Vancouver's food and retail sectors are under financial pressure and any enforcement of by-law requirements is expected to further compound this hardship.

Accordingly, in recognition of the COVID-19 related impacts on businesses, this report seeks Council's approval to amend the by-laws for cups and shopping bags by adding the new date of

January 1, 2022 to begin enforcement efforts. The by-laws will still come into effect on January 1, 2021 and all other by-law requirements will remain the same.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On January 21, 2020, Council enacted amendments to the License By-law and Ticket Offences By-law to regulate single-use utensils and plastic straws beginning April 22, 2020, and shopping bags and single-use beverage cups beginning January 1, 2021.

On April 29, 2019, Council enacted amendments to the License By-law banning the distribution of prepared food in polystyrene foam cups and take-out containers beginning January 1, 2020, and approved amendments to the Ticket Offences By-law.

On June 5, 2018, Council adopted the Single-Use Item Reduction Strategy, a priority action in the City's Zero Waste 2040 Strategic Plan, and directed staff to proceed with implementation.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager supports these recommendations.

REPORT

Background/Context

Council's approval of by-laws covering various single-use items is a testament to the City's commitment to transforming Vancouver into a zero waste community by 2040.

By-laws covering polystyrene foam cups, foam take-out containers, plastic straws and single-use utensils took effect earlier this year. However, education, outreach and enforcement was paused in March in response to COVID-19, when City operations shifted to providing emergency and essential services.

Since October 2020, the City has communicated that:

- Outreach and education will restart soon to help businesses, organizations, and non-profits comply with single-use item by-laws
- Due to COVID-19, the City is using discretion on when and where to enforce the single-use item by-laws:
 - Businesses are expected to comply or begin working to comply with the by-laws as soon as it is possible for them.
 - Charitable food services may continue to distribute single-use items with food or meals during COVID-19, but are expected to begin working towards complying with the by-laws as soon as it is possible for them.

By-laws covering shopping bags and disposable beverage cups are currently scheduled to take effect January 1, 2021, as follows:

Shopping Bags

Requirements	<ul style="list-style-type: none"> • Ban plastic shopping bags (including compostable plastic shopping bags) • Fees of at least 15 cents for paper shopping bags (25 cents after 1 year) • Fees of at least \$1 for reusable shopping bags (\$2 after 1 year) • At least 40% recycled content for paper shopping bags • Must report annual bag distribution when requested by City
Exemptions	<ul style="list-style-type: none"> • Small paper bags (no more than 15 x 20 cm when flat) • Paper and reusable shopping bags if: <ul style="list-style-type: none"> ○ Used to transport prescriptions from a pharmacy ○ Used to provide charitable food services ○ Already used and returned for reuse • Shopping bags used to transport large bulky items (e.g. pillows)

Disposable Beverage Cups

Requirements	<ul style="list-style-type: none"> • Fees of at least 25 cents for every disposable cup (all materials) • Locations must report the number of disposable cups distributed annually unless participating in a Reusable Cup Share program • Fees must be displayed on menus, including online ordering platforms
Exemptions	<ul style="list-style-type: none"> • Charitable food services • Packages of at least 6 cups sold for personal use • Hospitals, community care facilities

Staff are finalizing a suite of educational toolkits to support businesses with complying with the by-laws, as well as a public information campaign to highlight the shopping bag and cup by-laws.

Strategic Analysis

Complying with the shopping bag and cup by-laws requires significant preparation by businesses, and is expected to result in cost impacts. While the business community has expressed support for the by-laws and the City of Vancouver’s goals to reduce plastic waste and single-use items, they have recently expressed a number of significant concerns around timing, particularly with enforcement, due to the COVID-19 pandemic.

Outlined below is a summary of the concerns staff are hearing from the business community, including associations like Restaurants Canada, BC Restaurant and Food Services Association, and the Retail Council of Canada, large chains and small businesses:

- The by-laws are geared towards the food and retail sectors, which are experiencing significant economic strain due to the pandemic. Retailers and restaurants in the city are concerned about their ability survive this coming winter with the current second wave of COVID-19. Reduced revenues and increased costs related to complying with COVID-19 health requirements are making it difficult to cover basic operating costs. In many cases, operations are reduced to a bare minimum, and all efforts are directed towards keeping the business going while adapting to the pandemic and recent enhanced Provincial restrictions. The extra single-use items by-law requirements, while important, are a

secondary priority. Many businesses have little to no capacity to determine new compliance requirements or cover additional costs for sourcing alternative bags and cups, setting up point-of-sale systems to charge fees and track the number of shopping bags and disposable cups distributed, updating menus and signage, training staff, etc. These costs may push struggling businesses beyond their ability to survive.

- Staff shortages and reduced staff availability due to the pandemic make it challenging to maintain a core level of properly trained staff. Implementing new systems that require additional staff training adds to this challenge.
- Many of the retailers who would be subject to the shopping bag by-law have experienced a decline in customers due to the pandemic. As a result, their plastic shopping bag supplies are expected to last longer than usual. Disposing of excess plastic bag stock is undesirable and wasteful, and the Retail Council and individual businesses have indicated some businesses cannot afford to buy new paper shopping bags to replace the plastic ones.
- Supply chain issues due to the pandemic are resulting in a lack of availability of paper shopping bags manufactured with 40% recycled content as required in the by-law. Small businesses in particular are having difficulty sourcing these shopping bags, and the limited supply has significantly increased their cost. Businesses are concerned about making bulk purchases like paper bags when their future is uncertain.
- There are customers that continue to think plastic shopping bags and take-out beverage cups are safer than reusable alternatives. Although the BC Center for Disease Control and Vancouver Coastal Health have provided guidance to support businesses with safely handling reusable shopping bags and cups during the pandemic, there are customers who insist single-use shopping bags and cups are safer. Employees are asking customers to respect COVID-19 health and safety requirements like mask wearing, physical distancing and hand hygiene, and experiencing an increased number of altercations as a result. More education is needed to calm concerns around the safety of reusable alternatives and support the public and businesses during the transition.
- It is important to maintain a level playing field between large and small retailers and restaurants, which could be “unleveled” if their respective challenges with COVID lead them to comply at different times.

At this point, associations and individual businesses are asking the City to recognize that a January 1, 2021 start date for enforcement could further exacerbate their already tenuous economic situation. (The City is not hearing similar concerns for the three by-laws for foam cups and foam take-out containers, plastic straws, and disposable utensils, which have been in effect for a number of months already.)

Staff's original intent was to allow the shopping bag and cup by-laws to come into effect and then use a gradual and discretionary enforcement approach. Staff have tried to reassure businesses that due to the unprecedented circumstances of COVID-19, the City would prioritize outreach and education and reserve enforcement for cases of deliberate and harmful non-compliance with the by-law.

Feedback from the business community has been that the intention of discretion around enforcement is appreciated, but greater certainty is needed on when enforcement may occur. The business community would prefer an exact date for compliance and enforcement so that

they can determine how and when to invest in compliance costs and new operating procedures within the context of COVID-19.

Clearly indicating in the by-laws that enforcement will not commence until January 1, 2022 will allow the food and retail sectors to focus on the current challenges associated with COVID-19, and give them more time to properly plan for the changes needed to comply with the by-laws.

Implications/Related Issues/Risk

Risk

The City has worked for many years to build trust with the business community through the development of these by-laws. Proceeding with the implementation of the shopping bag and cup by-laws without adjusting the enforcement date risks the City losing the support of businesses with respect to Vancouver's single-use item reduction goals.

If the City were to simply change the by-law start dates, or announce enforcement will be delayed indefinitely, the City would face the risk of being perceived as wavering in its commitment to by-laws already adopted by Council to reduce single-use items. For this reason, staff recommend keeping January 1, 2021 as the start date and introduce a specific enforcement date of January 1, 2022.

Financial

Council's approval of the recommendations do not result in incremental financial impacts to the City.

Legal

By-law amendments are recommended to specify the start date for enforcing the shopping bag and cup by-laws.

Enforcement

Historically, the City has enacted by-law requirements and enforcement provisions that come into effect on the same date. Defining enforcement provisions that start on a different date risks creating confusion and, under typical circumstances, is not recommended. Due to the unprecedented nature of the COVID-19 pandemic and its impact on businesses, it is considered appropriate in this case to enact new enforcement dates for the shopping bag and disposable cup by-laws, but this is not intended to set a precedent for future by-law development.

Communications

Providing the food and retail sectors an additional 12 months to prepare for the by-laws also allows more time for the City to work with businesses and help them be well-positioned for compliance. During this time, staff will continue communications and outreach campaigns for the public and businesses, building awareness of the new enforcement date, requirements for the by-laws, and information on cleaning and safety protocols for reusable shopping bags and

cups. The communications and outreach campaigns will centre on behavior change and will uphold the City's unwavering commitment to reduce plastic waste and single-use items.

CONCLUSION

The business community impacted by the start of the shopping bag and cup by-laws says the current approach does not recognize the real risks businesses are now facing around survival due to the pandemic. Delaying enforcement by 12 months through a by-law amendment, while continuing education and outreach, is expected to provide food and retail businesses in Vancouver time to recover and better prepare for compliance with these by-laws.

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Appendix A. By-law Amendment for Shopping Bags

BY-LAW NO. _____

**A By-law to amend License By-law No. 4450
regarding enforcement of requirements for shopping bags**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the License By-law.
2. Council inserts a new subsection 15.9 (10) to this By-law as follows:
“ (10) Notwithstanding this By-law, or any other By-law, no action may be taken to enforce section 15.9 of this By-law until January 1, 2022.”

Severability

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

4. This By-law is to come into force and take effect on January 1, 2021.

ENACTED by Council this _____ day of _____, 2020

Mayor

Acting City Clerk

Appendix B. By-law Amendment for Beverage Cups

BY-LAW NO. _____

**A By-law to amend License By-law No. 4450
regarding enforcement of requirements for single-use beverage cups**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the License By-law.
2. Council inserts a new subsection 15.8 (7) to this By-law as follows:

“ (7) Notwithstanding this By-law, or any other By-law, no action may be taken to enforce section 15.8 of this By-law until January 1, 2022.”

Severability

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

4. This By-law is to come into force and take effect on January 1, 2021.

ENACTED by Council this _____ day of _____, 2020

Mayor

Acting City Clerk