



Local Government Guide for Bylaws Regulating Single-use Plastics

Spheres of Concurrent Jurisdiction Environment and Wildlife Regulation,
B.C. Reg. 144/2004 – Part 3 Plastic Waste Reduction

January 2022

References and Relations

This guide helps to clarify the Ministry of Environment and Climate Change Strategy policy and the provisions of Part 3 of the Spheres of Concurrent Jurisdiction – Environment and Wildlife – Regulation, B.C. Reg. 144/2004 (the Regulation) made under the *Community Charter* as they relate to the management of single-use plastics. This guide is not a legal document and the information in it does not constitute legal advice or impose any legally binding requirements. This guide does not replace the Regulation, the *Community Charter*, the *Environmental Management Act*, or any other applicable law. Any amendments to the Regulation and other legislation referred to in this guide may affect provisions of this guide. In the event of an inconsistency, the Regulation or other applicable legislation will prevail. Municipal governments should rely on legal advice as necessary. Municipal governments may contact the ministry if they have questions about this guide or its suggested approaches.

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Purpose

This document provides municipalities with direction and assistance on developing bylaws regulating single-use plastics.



Ministry of
Environment and
Climate Change Strategy

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Introduction

The purpose of this guide is to support municipalities with interpretation of Part 3 of the Regulation, and to provide direction and assistance on developing bylaws regulating single-use plastics.

The *Community Charter* recognizes that, in four spheres, municipalities and the provincial government have a shared interest in regulating certain activities. Under the *Community Charter*, protection of the natural environment is one of these four spheres of concurrent jurisdiction.

The Regulation provides B.C. municipalities with the authority to regulate single-use plastics by following a consistent provincewide approach – contributing to the reduction of waste, greenhouse gas emissions and litter in communities. The intention of Part 3 of the Regulation is to authorize municipal bylaws that reduce the use of single-use items and encourage greater use of sustainable reusables. Educating businesses and consumers on the benefits of sustainable reusables is important, and municipalities that adopt a single-use bylaw should provide resources and tools to support the transition to more sustainable reusables.

Detailing what municipalities can regulate/prohibit and the requirements that can be imposed is expected to support greater consistency among jurisdictions in B.C. and make it easier for businesses (and consumers) in different municipalities to comply. Enabling municipalities under the *Community Charter* to regulate single-use plastics contributes to a more circular economy for plastics.

As with all regulations, this Regulation can be amended by the Province, with additional items being added to the Regulation, or changes to approaches and exemptions. Any proposed changes would include further outreach and engagement.

Interpretation of Definitions

Municipalities should refer to the Regulation for all definitions. The following provides supplemental information to clarify the definitions within the Regulation.

Accessible Straw: Specifics are to address accessibility and immune concerns. A drinking straw that is plastic, bendable and individually wrapped in paper meets the widest accessibility criteria. It poses no known choking hazard to humans, injury or food allergen risks; does not require cleaning; results in no cost to the consumer; is safe to use and does not lose its structure at high temperatures; is bendable; and protects compromised immune systems.

Plastic: Refers to the commonly understood definition of plastic, and includes biodegradable and compostable plastics. Biodegradable and compostable plastics are included in the definition to avoid businesses substituting single-use plastic items with other plastic alternatives that are not able to be composted or recycled under the existing B.C. regulatory framework and infrastructure.

Recycled Paper Bag: Recycled paper bags must contain at least 40% recycled paper content as studies have shown that using recycled content to make paper bags helps to reduce the environmental impacts from their manufacture and use. The requirement for paper bags made using recycled content to be labelled on the outside ensures businesses and consumers know they are receiving a bag that is made with recycled content.

Reusable Bag: The minimum uses and washes criterion ensures reusable bags are of sufficient quality and made to be re-used repeatedly. The intent is to provide a minimum standard, and does not exclude other types of durable, reusable bags (e.g., leather, hemp, jute) that retailers may wish to provide to their customers. To offset the environmental impacts of producing and using reusable bags, reusable bags need to be reused at least 100+ times. Requiring reusable bags to be washable helps ensure consumers can keep their reusable bags clean when provided to store employees to pack, when used to transport food, and during times of public health emergencies.

Supplementary Item: As defined, it is the item that is provided to a customer by a business to facilitate the transport of a purchase from a business or consumption of a product. For example, a bag is used to transport groceries, and a take-out container is used to hold a burger for consumption. This identifies which items are in scope in the Regulation and is used to describe items given out at point of sale.

Scope and Approach of Items

The following section outlines the approach, scope, rationale, and any exemptions to regulating the following single-use items summarized in Figure 1.





 CHECKOUT BAGS	 STRAWS	 POLYSTYRENE FOAM SERVICE WARE	 UTENSILS	
Ban	Ban; alternatives by request only	Ban	OPTION 1 Ban plastic and make alternatives by request only	OPTION 2 Require all utensils available by request only
Fee	Exemptions	Exemptions		
Exemptions				

Figure 1: Summary of Approach for Single-Use Items Identified in the Minister’s Regulation

These single-use items have been identified based on feedback from municipal action and engagement, and environmental impact. Each item has a specific approach and rationale for how to implement restrictions that will lead to environmental protection and waste reduction, while ensuring the proper exemptions are in place. The Regulation provides a municipality with the option to regulate all or some of the items listed in the Regulation. If a municipality wants to regulate a different item from those included in the Regulation, or use a different approach outside the Regulation, provincial government approval is required as per the *Community Charter*.

The Regulation does not apply to the sale of single-use items that are sold as a product (i.e., in packages of multiples that are intended for use in the customer's home). However, if a business purchases single-use items that are in packages of multiples for the purpose of distribution (i.e., providing to a customer to facilitate transport of a purchase from the business or consumption of a product), and the business distributes these single-use items, then the business would be in contravention of municipal bylaws that regulate that single-use item.

Plastic Checkout Bags

The approach for plastic checkout bags includes:

- Ban on plastic checkout bags;
- Fees on alternative bags;
- Minimum fee structure;
- Fees kept by business;
- Introductory period to phase in fees; and,
- Exemptions for small paper bags, bags not provided at point of sale, and used bags from the minimum fee requirement.

Alternative bag fee:

A restaurant is using paper bags for takeout orders. These bags must be made from a minimum of 40% recycled content and labelled as such. The restaurant must charge its customer a 25-cent fee for the bag, which the restaurant keeps.

Scope:

If the municipality bans plastic checkout bags, they must require fees (to be kept by the business) on alternative bags at the set minimum fee structure:

- \$0.25 for a paper bag
- \$2.00 for a reusable bag

The municipality can choose whether to implement an introductory period of up to 12 months to phase in fees, starting at:

- \$0.15 for a paper bag
- \$1.00 for a reusable bag

The optional introductory period offers municipalities a degree of flexibility when implementing a plastic checkout bag bylaw, enabling them to respond to the needs of the businesses and local community when making the transition to reusable bags.

Respecting reusable bags, the intent is to provide a minimum standard for affordable reusable bags. This is not to the exclusion of other types of durable reusable bags that consumers may use to transport goods and/or that retailers may wish to provide to their customers at a higher price. A retailer would be able to sell any reusable bag that is durable and of sufficient quality that is made to be re-used repeatedly. Examples of durable and reusable bag materials include:

- Cotton and recycled cotton;
- Synthetic fabrics such as polypropylene, nylon, polyester;
- Recycled PET (polyethylene terephthalate); and,
- Other natural fabrics such as hemp or jute.

Rationale:

To achieve the greatest reduction in use of single-use checkout bags, bans on plastic bags in conjunction with fees on alternative single-use paper bags have been shown to work best. Many jurisdictions, including several municipalities in B.C., have had success in implementing ban and fee regulations for checkout bags. Fees help disincentivize the use of alternative single-use packaging and products that carry different but still negative environmental impacts.

The intent is to increase the use of reusable alternatives that lead to overall waste reduction by encouraging consumers to switch to reusable bags. The fee for a reusable bag needs to be high enough to ensure a sufficient quality of reusable bags, such that it can be washed and used at least 100 times. If a customer happens to forget to bring a bag, they have the option to buy a paper or reusable bag. The fee levels reflect input from local governments and stakeholders, including industry, and reflects the most common fee structure implemented by B.C. municipalities.

Fees for alternative bags are to be kept by the business; none of the revenue will be collected by the municipalities or provincial government. The fees will help businesses offset the additional costs of offering alternatives and encourage reusable bags of sufficient quality are available.

Exemptions:

Both local government and businesses expressed a strong desire for consistent regulation across the province for plastic checkout bags. To help avoid a patchwork of bylaws, the Regulation specifies which items can be regulated, as well as the minimum set of exemptions that must be included in a municipal plastics bylaw.

In addition, the single-use bags outlined below are out of scope and not considered checkout bags. Since they wouldn't be provided to a customer at point of sale, they are exempt from the bylaw.

Small paper bags as defined in the Regulation, or bags used to:

- package loose bulk items such as fruit, vegetables, nuts, grains, or candy;
- package loose small hardware items such as nails and bolts;

Bag fee exemption:

A pharmacy uses small paper bags to provide customers with their medication. These bags are exempt from the minimum fee requirement and the pharmacy does not charge the customer a 25-cent fee for the bag.

- contain or wrap frozen foods, meat, poultry, fish or seafood, whether prepackaged or not;
- wrap flowers or potted plants;
- protect prepared foods or bakery goods that are not pre-packaged;
- transport live fish;
- protect linens, bedding or other similar large items that cannot easily fit in a reusable bag;
- protect newspapers or other printed material intended to be left at the customer's residence or place of business; or
- protect clothes after professional laundering or dry cleaning.

Bag fee exemption:

A customer's only item of purchase at a grocery store is apples, which they put into a plastic produce bag. Upon checkout, the customer indicates they do not need a paper or reusable bag. The customer is not charged a fee, as produce bags are not considered checkout bags under the regulation.

Programs and services for residents disproportionately affected by income inequality are also exempted. For example:

- take-a-bag, leave-a-bag programs operated by organizations and businesses;
- time-bound, in-store promotions giving out reusable bags; or
- registered charities (e.g., food service providers).

Plastic Drinking Straws

The approach for drinking straws includes:

- Restrictions on plastic drinking straws;
- Required exemptions for accessibility needs; and
- Alternative drinking straws can be made available on a by-request basis.

Accessibility needs:

A customer in a café requests an accessible drinking straw. The café is permitted to provide the customer with a plastic straw, but staff must not ask the customer for proof of their need.

Scope:

If a municipality restricts the distribution of plastic drinking straws, it must include an exemption that still allows businesses to make accessible plastic drinking straws available upon request for those who have accessibility needs. This is to ensure that customers who require a straw, can safely consume beverages.

Those who require an accessible straw can request one and must not be required to provide proof that they need one.

If a municipal bylaw restricts plastic straws, businesses that stock alternative single-use drinking straws made from materials other than plastic (e.g., paper, pasta, etc.), must make these alternative single-use drinking straws available by-request only. This could include via a self-serve station, where customers can help themselves to alternative, non-plastic drinking straws.

Rationale:

The intent to require alternative single-use drinking straws to be made available by-request only is to avoid simply swapping single-use plastic drinking straws with, for example, paper drinking straws. A by-request only requirement will help to reduce the number of single-use drinking straws given out when they are not needed, which will contribute to a reduction in overall waste.

Alternative straw guidelines:
A food vendor provides customers with a beverage in a to-go cup and stocks straws made from paper. The regulation restricts food vendors from automatically providing these straws to customers unless the customer is asked, or the customer requests one.

Allowing businesses to stock accessible straws enables peoples with disabilities, medical needs or reduced mobility with the ability to socialize outside the home and participate in public life. Drinking straws that are plastic, bendable and individually wrapped in paper meet the widest accessibility criteria. They pose no known choking hazard to humans, injury or food allergen risks, do not require cleaning, result in no cost to the consumer, are safe to use, do not lose their structure at high temperatures, are bendable and protect compromised immune systems. All other types of straws (i.e., plastic non-flexible, metal, silicone, paper, compostable or degradable) do not meet as many of these accessibility criteria.

Polystyrene Foam Service Ware

The approach for polystyrene foam service ware includes:

- Ban on polystyrene foam service ware.

Scope:

If a municipality bans polystyrene foam service ware, no business may sell or otherwise provide prepared food in food service ware made from polystyrene foam (i.e., from a cup, plate, bowl, tray, carton or lidded container). This would not include polystyrene foam service ware (e.g., polystyrene foam trays) used to contain raw uncooked food, such as meat, poultry, fish and seafood.

Prepared food:
A store prepares fresh food on site. Regardless of whether the food is to order or for sale, the food must not be packaged in polystyrene foam containers (e.g., lidded carton, cup or tray).

Rationale:

Polystyrene foam is pervasive in the marine environment. Polystyrene foam service ware can rapidly break-apart and degrade into smaller pieces in the environment. When littered, it is carried from streets and through storm drains out to the ocean. Given that alternatives are readily available, it is more appropriate to ban polystyrene foam service ware than to manage its use. This approach is consistent with the actions taken by other jurisdictions to tackle single-use items made from this material.

Exemptions:

Municipalities are encouraged to consider exemptions for registered charities that provide programs and services to residents disproportionately affected by income inequality. For example, allowing a temporary exemption so that charitable organizations have time to use up existing stock and transition away from polystyrene foam service ware.

Plastic Utensils (spoon, fork, knife, chopstick or stir stick)

The approach for utensils includes:

- Ban on plastic single-use utensils OR require single-use utensils by-request only.

Scope:

The municipality, if choosing to regulate single-use utensils (including stir sticks), can choose one of the following options:

- **Option 1:** Ban plastic single-use utensils and make alternative single-use utensils available by-request only.
- **Option 2:** Require that all single-use utensils (including plastic) be available by-request only.

If a municipality regulates single-use utensils, self-serve stations would not be affected. A food vendor can provide single-use utensils without a customer request, where the customer helps themselves to a single-use utensil from the self-service station.

Rationale:

A municipality can decide to ban plastic utensils, or they may instead require that businesses only provide them to their customers by request. Simply changing the default from automatically giving out single-use utensils to requiring that the customer ask for them will help to reduce their use. Making plastic utensils and their alternatives only available by request will help to minimize the risk of single-use plastic utensils simply being substituted with other single-use alternatives, which also carry negative environmental impacts. By-request only restrictions also save businesses money.

Exemptions:

The Regulation not only specifies which items can be regulated but also includes a minimum set of exemptions that must be included in a municipal single-use plastics bylaw. Details on the exemptions for each of the single-use items was provided in the preceding sections. These exemptions have been adopted by many B.C. municipalities that have already enacted single-use bylaws. The Regulation recognizes that some municipalities may need to include additional exemptions to meet the needs of their community. Any other exemptions that are not already outlined in the Regulation should be carefully considered, consulted on and implemented only if necessary. To maintain consistency across the province and avoid varying bylaw requirements for businesses operating in different and/or multiple municipalities, it is expected that municipalities consider adopting the exemptions outlined in the preceding sections.

Request only:

A customer visits a drive-thru. If they want single-use utensils to eat their food, they need to request them; or the employee can ask the customer if they want utensils. The business is no longer allowed to automatically include them with an order.

Self-serve dispenser:

A fast food restaurant that has a self-serve dispenser for cutlery would not be affected if a municipality regulates single-use utensils. Customers would take what they need from the self-serve dispenser without the need to ask for them.

Implementation

Municipal single-use bylaws must set a date of at least six months after adoption of the bylaw before it comes into force to allow businesses time to transition and use up existing stock.

The ministry encourages municipalities to communicate the proposed changes early and broadly to give businesses and residents time to adjust to the changes. It is also encouraged that municipalities consider producing standard materials for use at point of sale.

Notifying the Ministry of Environment and Climate Change Strategy

Once the bylaw is approved, the ministry asks that the municipality notify the ministry of the bylaw being approved by council, the items being regulated and the implementation date.

Bylaw enforcement timeline:

A municipality's single-use bylaw is adopted in the month of June. The earliest enforcement of the bylaw would not come into effect until December of the same year to allow businesses at least six months to transition (i.e., source alternative items and use up existing stock).

Monitoring, Reporting, Education and Enforcement

Monitoring and Reporting Requirements

Municipalities can choose whether they want to adopt reporting requirements. Reporting requirements enable municipalities to track the use of single-use items and the efficacy of the bylaw in their jurisdiction. For example, municipalities may require businesses to report how many paper bags and reusable bags have been used.

How the reporting requirement rolls out is up to the municipality. Some examples include:

- Allowing businesses to choose a method for tracking distribution that works for them (e.g., electronic point-of-sale systems, counting inventory at the start and end of the year, etc.).
- Informing businesses how and when they will need to report this data.

This data could help inform whether a bylaw is effective in reducing the number of single-use items used year-over-year.

Education and Enforcement

Municipalities should undertake an awareness campaign to encourage behaviour change and to help businesses prepare for, comply with, and communicate the upcoming requirements to their staff and customers. It is also important that municipalities educate businesses and the public on the benefits of reusable alternatives. Figure 2 shows examples of educational posters that can be displayed at a business to notify customers of the single-use bylaw.

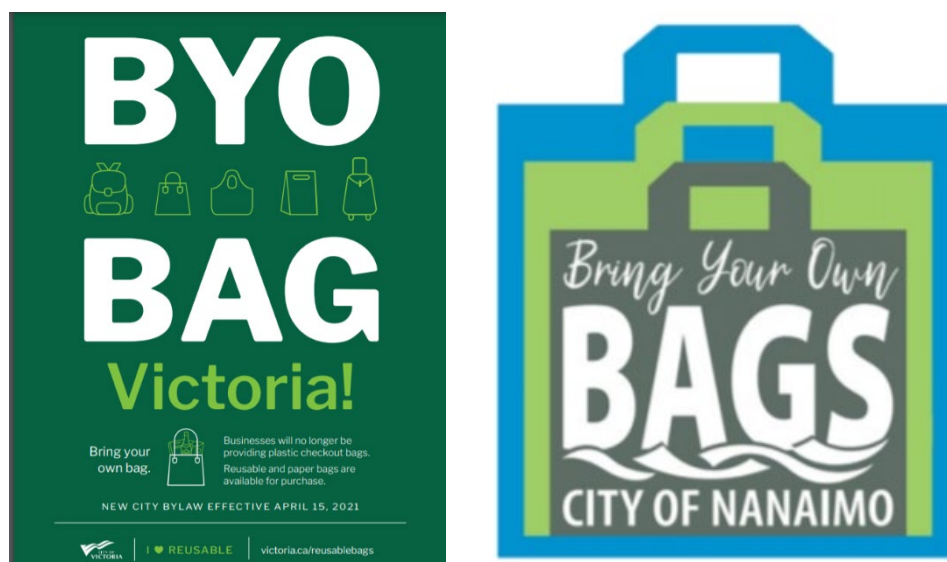


Figure 2: City of Victoria¹ and City of Nanaimo² Checkout Bag Bylaw Posters

Enforcement is required, and it is the responsibility of the municipality to decide on how it will undertake enforcement action. The ministry, based on feedback from local governments, recommends an education-first approach to enforcement. This includes notifying businesses of the requirements and encouraging voluntary compliance with the bylaw requirements. The level of any penalty/fine would be at the discretion of the municipality following the *Community Charter - Part 8 — Bylaw Enforcement and Related Matters*.

Education on Accessible Straws

Messaging should confirm that accessibility will be protected. For some individuals with a disability or medical condition, single-use plastic drinking straws are crucial to their ability to consume liquids. Clear and consistent messaging on why accessible straws are necessary is essential to promote equal access for all individuals, as well as for the public to understand that these straws are meant for people with disabilities or medical needs. The City of Vancouver has a great sample of [educational and business resources](#) to fulfill this requirement.

Provincial Public Health Orders

Provincial public health orders can supersede municipal bylaws. If necessary, this could potentially cause a bylaw to be put on hold, or fees and enforcement temporarily suspended.

¹ City of Victoria. [Plastic Checkout Bags](#).

² City of Nanaimo. [Reducing Single Use Checkout Bags in Nanaimo](#).