

CITY OF NANAIMO

BYLAW NO. 7283

A BYLAW TO REGULATE THE USE OF CHECKOUT BAGS

WHEREAS the Council of the City of Nanaimo may by bylaw, pursuant to its statutory powers, including Section 8(6) of the *Community Charter*, regulate businesses; and

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as “Checkout Bag Regulation Bylaw 2019 No. 7283”.

**PART I – GENERAL**

2. Definitions

“Checkout Bag”	means (a) any bag 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) bags used to package take-out or delivery of food; and (c) 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 Bylaw 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 as set out in Schedule 'A', attached to and forming part of this bylaw.
- (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 fish, 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) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Bylaw Notice Enforcement Bylaw and the *Offence Act* if that person:
  - (a) contravenes a provision of this Bylaw;
  - (b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or
  - (c) neglects or refrains from doing anything required by a provision of this Bylaw.
- (2) Each instance that a contravention of a provision of this Bylaw occurs and each day that a contravention continues shall constitute a separate offence.

6. Penalties

A person found guilty of an offence under this Bylaw is subject to a fine:

- (a) if a corporation, of not less than \$100.00 and not more than \$10,000.00; or
- (b) if an individual, of not less than \$50.00 and not more than \$500.00 for every instance that an offence occurs or each day that it continues.

7. Severability

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.

8. Transition Provisions

- (1) Section 4(4) is repealed, effective January 1, 2020

9. Effective Date

This Bylaw comes into force on August 1, 2019.

PASSED FIRST READING \_\_\_\_\_  
PASSED SECOND READING \_\_\_\_\_  
PASSED THIRD READING \_\_\_\_\_  
ADOPTED \_\_\_\_\_

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CORPORATE OFFICER

SCHEDULE 'A'

CITY OF NANAIMO BLYAW TO REGULATE THE USE OF CHECK OUT BAGS

1. Check out bags fees, pursuant to Section 3(2)(c), shall be:
  - (a) effective August 1, 2019 through December 31, 2019:
    - (1) 15 cents per Paper Bag; and
    - (2) \$1 dollar per Reusable Bag.
  - (b) Effective January 1, 2020
    - (1) 25 cents per Paper Bag; and
    - (2) \$2 dollars per Reusable Bag.