

The Corporation of the City of Guelph

By-law Number (2022) - 20701

A by-law in respect of single-use plastic shopping bags and certain other harmful single-use items within the City of Guelph so as to further the environmental well-being of the City of Guelph.

Whereas:

- A. The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*"), provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law;
- B. Section 8(1) of the *Municipal Act* provides that the power of the City shall be interpreted broadly so as to confer broad authority on the City to enhance the City's ability to respond to municipal issues;
- C. Section 10 of the *Municipal Act* provides that the City may provide any service or thing that the City considered necessary or desirable for the public;
- D. Section 10(2)[5] of the *Municipal Act* provides that a municipality may pass by-laws respecting the economic, social, and environmental well-being of the municipality, including in respect of climate change;
- E. Section 11(3)[3] of the *Municipal Act* provides that a municipality may pass by-laws respecting matters relating to waste management;
- F. Section 128 of the *Municipal Act* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of its council, are or could become or cause public nuisances, and further that the municipal council's determination of what constitutes a public nuisance is not subject to review;
- G. Section 151 of the *Municipal Act* allows a municipality to license, regulate, and govern any business wholly or partially carried on within the municipality, even if the business is being carried on from a location outside of the municipality;
- H. Single-use plastic shopping bags and other single-use items contribute to fossil fuel emissions, endanger wildlife and cause habitat destruction, eco-system disruption, plastic pollution, and environmental contamination;
- I. Alternatives to single-use plastic shopping bags and other single-use items are widely and economically available for public and business use, and increased demand for such products supports the growth of regional industries, such as forest products;
- J. In the opinion of the Council of The Corporation of the City of Guelph, single-use plastic shopping bags and certain other single-use items are a public nuisance and detrimental to the environment;
- K. Under s. 425 of the *Municipal Act* a municipality may pass bylaws providing that a person who contravenes a bylaw of the municipality passed under the *Municipal Act* is guilty of an offence;
- L. Under s. 429 of the *Municipal Act* a municipality may establish a system of fines for offences under a bylaw of the municipality passed under the *Municipal Act*;

The Council of The Corporation of the City of Guelph enacts as follows:

Part 1: Interpretation:

- 1.1 Definitions. In addition to the terms defined parenthetically herein, in this by-law:
 - a. "Business" includes, without limitation, any trade, occupation or business carried on or engaged in wholly or partly within the City of Guelph, and any trade, occupation or business carried on or engaged in by a charitable or

non-profit organization.

- b. "Customer" means any person purchasing, renting, or receiving food, goods, or materials from a Business.
- c. "Fabric" means any woven, knitted, crocheted, knotted, braided, felted, bonded, or laminated material produced from, or in combination, with a textile fibre.
- d. "Food Service Ware" means products used for serving or transporting Prepared Food or beverages that are ready to be consumed including, but not limited to, plates, cups, bowls, trays, cartons and hinged or lidded containers.
- e. "Officer" means a municipal law enforcement officer while in the course of such officer's duties.
- f. "Paper Shopping Bag" means a shopping bag made out of paper.
- g. "Person" means an individual association, firm, partnership, corporation, trustee, or agent, and their heirs, executors, or legal representative of the person whom the context can apply according to law.
- h. "Plastic Shopping Bag" means a bag made wholly or partially from plastic derived from fossil fuels or plastic derived from biomass including but not limited to corn, sugarcane or other plants, includes bags labelled as (bio)degradable, oxo-biodegradable, compostable and the like.
- i. "Polystyrene Foam" means blown polystyrene, and expanded and extruded foams composed of thermoplastic petrochemical materials containing a styrene monomer and processed by any technique including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Includes polystyrene foam cups, take-out containers, bowls, plates and the like used for Prepared Food.
- j. "Prepared Food" means any food item or beverage prepared for consumption on or off a Business premises, using any cooking or food preparation technique. Prepared Food does not include any raw uncooked food, including meat, poultry, fish, seafood, eggs or vegetables unless provided for consumption without further food preparation.
- k. "Reusable Shopping Bag" means a bag with two handles that:
 - i. is intended to be used for transporting items purchased or received by the Customer from a Business;
 - ii. is designed and manufactured to be capable of at least 100 uses;
 - iii. is capable of being washed or disinfected; and
 - iv. is primarily made of Fabric or other durable material suitable for reuse.
- l. "Shopping Bag" means a bag used for the purpose of transporting items sold or otherwise provided to a Customer by a Business, including but not limited to take-out and to-go food, delivery of food, and leftovers from a meal, and customarily provided by a Business at the point of sale or when items ordered by telephone or internet-based ordering platforms retrieved from the Business by the Customer or a delivery service, but does not include:
 - i. Bag used to:
 - a. contain loose bulk items such as fruit, vegetables, candy, grains, nuts or other loose bulk food items, commonly used in grocery stores (also known as produce bags);
 - b. contain loose small hardware items such as nails and bolts;
 - c. protect prepared foods or bakery goods that are not pre-packaged;
 - d. packaged meat, poultry or fish, whether pre-packaged or not;
 - e. wrap flowers or potted plants;

- f. transport live fish;
 - g. used to transport or protect linens, bedding or other similar large items that cannot easily fit in a Paper Bag or Reusable Bag;
 - h. protect newspapers or other printed materials left at the person's residence or place of business;
 - i. protect clothes; or other linens after professional laundering or dry cleaning; and
 - j. protect used tires taken off a vehicle and placed in a vehicle.
- ii. Plastic bags sold in multiples for use at the Customer's home or Business, including but not limited to certified compostable bags, garbage bags, bin liners and pet waste bags.
- m. "Single-Use Items" means products and packaging designed to be used only once before they are discarded.

Part 2: Shopping Bags

- 2.1 No Business shall sell or provide a Plastic Shopping Bag to a Customer.
- 2.2 No Business shall sell or provide a Shopping Bag to a Customer, except as provided by section 2.3.
- 2.3 A Business may provide a Shopping Bag to a Customer only if:
 - a. The Customer is first asked if they need a Shopping Bag;
 - b. The Shopping Bag is a Paper Shopping Bag or a Reusable Shopping Bag; and
 - c. Every Business shall include the amount charged for any Paper Shopping Bag and Reusable Shopping Bag provided to a Customer as a separate line item on any receipt provided to the Customer.
- 2.4 Section 2.3c. shall not apply to:
 - a. Paper Shopping Bags; and
 - b. Reusable Shopping Bagsthat have already been used by a Customer including Shopping Bags from competitors and returned to a Business for the purpose of being re-used by the Customer.
- 2.5 No Business shall deny or discourage the use by a Customer of the Customer's own Shopping Bag for the purpose of transporting items purchased or received by the Customer from the Business.

Part 3: Polystyrene Foam Food Service Ware

- 3.1 No Business shall sell or otherwise provide Prepared Food to a Customer in any Food Service Ware that contains Polystyrene Foam.

Part 4: Enforcement and Penalty Provisions

- 4.1 The enforcement of this By-Law shall be conducted by an Officer.
- 4.2 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.
- 4.3 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-Law.
- 4.4 Every Person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of such Officer's duties.
- 4.5 Every Person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended (the "Provincial Offences

Act”) and the *Municipal Act*.

- 4.6 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act*.
- 4.7 Any Person who is charged with an offence under this By-law or an Order issued pursuant to this By-law or every director or officer of a corporation who knowingly concurs in the contravention by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act*, to the following fines:
 - a. on the first offence, to a fine not more than \$50,000.00; and
 - b. on a second offence and each subsequent offence, to a fine of not more than \$100,000.00.
- 4.8 Every Person who is issued a Part 1 offence notice or summons upon conviction is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act*.
- 4.9 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*.
- 4.10 If a Person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

Part 5: General

- 5.1 This by-law shall be referred to and may be cited as the "Single-Use Items By-law".
- 5.2 If any provision or part of a provision of this By-law is declared by any court or tribunal or any provincial or federal legislation or regulation to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law or its application in any other circumstance shall not be affected and shall continue to be in full force and effect.

Part 6: Effective Date:

6.1 This By-law shall come into force and take effect on January 1, 2023.

Passed this Fourteenth day of September, 2022 DS

DocuSigned by:

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Cam Guthrie, Mayor

DocuSigned by:

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Stephen O'Brien, City Clerk

