

## DISTRICT OF UCLUELET

### BYLAW NO. 1266, 2020

A bylaw to regulate single-use items.

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**WHEREAS** the *Community Charter* authorizes a council to regulate in relation to protection of the natural environment with approval from the minister responsible;

**AND WHEREAS** the Council of the District of Ucluelet wishes to establish a bylaw to reduce the creation of waste from single-use items and the associated municipal costs to better steward municipal property, including sewers, streets, parks, beaches and waterways;

**AND WHEREAS** the Council of the District of Ucluelet wishes to promote responsible and sustainable environmental practices that are consistent with the values of the community;

**NOW THEREFORE** the Council of the District of Ucluelet, in open meeting, enacts as follows:

#### 1. Citation

This Bylaw may be cited for all purposes as the “District of Ucluelet Single-Use Item Regulation Bylaw No. 1266, 2020.”

#### 2. Definitions

In this Bylaw:

“Checkout Bag” means:

- (a) any bag that is intended for the purpose of transporting items received by a customer from a Business;
- (b) and 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 Ucluelet Business Regulation and Licensing Bylaw No. 922, 2003, as amended from time to time or any successor legislation to that bylaw\_and, for the purposes of section 3, includes a person employed by, or operating on behalf of, a Business;

“Drinking Straw” means a tube used to transfer a beverage from a container to the mouth of the individual drinking the beverage by suction;

“Food Service Ware” means products used for serving or transporting prepared food or beverages including, but not limited to, plates, cups, bowls, trays, and hinged or lidded containers;

“Paper Bag” means a bag made out of paper, 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 or a Small Plastic Bag;

“Plastic Drinking Straw” means a straw made primarily of plastic, including biodegradable or compostable plastic;

“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 form), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene);

“Prepared Food” means any food or beverage prepared for consumption by a Business at a licenced premises or location, using any cooking or preparation technique. Prepared Food does not include any raw or uncooked food, including meat, poultry, fish, seafood, or vegetables, unless provided for consumption without further preparation;

“Reusable Bag” means a bag with handles that is for the purpose of transporting items purchased by the customer from a Business and is designed and manufactured to be capable of at least 100 uses;

“Small Paper Bag” means any bag made out of paper that is less than 15 centimetres by 30 centimetres when flat;

“Small Plastic Bag” means any bag made out of plastic that is less than 15 centimetres by 30 centimetres when flat;

### **3. Regulation**

- (1) Except as provided in this Bylaw, no Business may provide a customer with any of the following items:
  - (a) Checkout Bag
  - (b) Plastic Drinking Straw
  - (c) Polystyrene Foam Food Service Ware for Prepared Foods
  
- (2) A Business may provide a Checkout Bag to a customer only if:
  - (a) the customer is first asked whether they need a bag;
  - (b) the bag provided is a Paper Bag or a Reusable Bag; and
  - (c) the customer is charged a fee not less than:
    - i. \$0.25 per Paper Bag; and
    - ii. \$2.00 per Reusable Bag.
  
- (3) For certainty, no Business may:
  - (a) sell or provide to a customer any of the items listed in section (1) except as provided by this Bylaw; or
  - (b) provide a Checkout Bag to a customer free of charge.

- (4) No Business shall deny or discourage a customer from using their own Checkout Bag or drinking straw.

#### **4. Exemptions**

- (1) Section 3 does not apply to Small Paper Bags or Small Plastic Bags used to:
  - (a) package loose bulk items such as fruit, vegetables, nuts, grains, and 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; or
  - (f) contain prescription drugs received from a pharmacy;
- (2) Section 3 does not apply to Plastic Bags used to protect linens, bedding, construction materials or other similarly large items that cannot easily fit in a Reusable Bag.
- (3) Section 3 does not apply to Plastic Drinking Straws provided by request to customers with an accessibility need, and customers shall not be required to provide any medical information to prove their need.
- (4) This Bylaw does not apply to the sale of Plastic Bags intended for use at the customer's home or business, provided they are prepackaged and sold in packages of multiple bags.
- (5) This Bylaw does not apply to the sale of Plastic Drinking Straws intended for use in the customer's home, provided they are sold in packages of multiple straws.
- (6) Notwithstanding section 3(2) and 3(3), a Business may provide a Checkout Bag without asking and free of charge if the bag has been donated to the Business for the purpose of being reused by other customers, and:
  - (a) the bag has already been used by a customer; or
  - (b) in the case of a Reusable Bag, the bag is made from 100% recycled materials.

#### **5. Offence**

- (1) A person commits an offence and is subject to the penalties imposed by this 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 day that a contravention of a provision of this Bylaw occurs or continues

shall constitute a separate offence.

## **6. Enforcement**

- (1) Bylaw Enforcement Officers of the District of Ucluelet are responsible for the enforcement and administration of this Bylaw.
- (2) For the purposes of this Bylaw, the designated Bylaw Enforcement Officer means any of the following:
  - (a) Chief Administrative Officer or his designate;
  - (b) Bylaw Enforcement Officer or his designate; or
  - (c) Manager of Community Planning or his designate.
- (3) No person shall unreasonably obstruct or prevent a Bylaw Enforcement Officer from carrying out his or her duties as prescribed in this Bylaw. The Bylaw Enforcement Officer is authorized and empowered to inspect, compel and require that all the regulations and provisions in this Bylaw are carried out.
- (4) Every person who contravenes any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses, omits, or neglects to fulfil, observe, carry out, or perform a duty or obligation imposed by this Bylaw, shall be deemed to have committed an offence against this Bylaw and:
  - (a) shall be liable to a fine set out in "Schedule A" attached hereto and forming part of this Bylaw, as amended from time to time;
  - (b) shall be liable to a penalty set out in the "Municipal Ticket Information System Bylaw No. 949, 2004" as amended from time to time;
  - (c) shall be liable, upon summary conviction, to the penalties provided under the "Offence Act" and amendments thereto; or
  - (d) any combination of 6 (4) (a), (b), and (c).
- (5) The intent of this Bylaw is to set standards of general public interest, and not to impose a duty on the District of Ucluelet or its employees to enforce its provisions and:
  - (a) a failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions is not to give rise to a cause of action in favour of any person; and
  - (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the Bylaw and the issuance thereof in error is not to give rise to a cause of action.

## **7. Severability**

If any provision of this Bylaw is held to be invalid by any court of competent jurisdiction, that provision shall be severed and its severance shall not affect the validity of the remainder of the Bylaw.

## 8. Effective Date

This Bylaw comes into force upon adoption, except section 3(1)(c) which comes into force six months thereafter.

## 9. Repeal

“District of Ucluelet Single-Use Plastic Regulation Bylaw No. 1247, 2019” is hereby repealed.

**READ A FIRST TIME** this 11<sup>th</sup> day of February, 2020.

**READ A SECOND TIME** this 11<sup>th</sup> day of February, 2020.

**READ A THIRD TIME** this 11<sup>th</sup> day of February, 2020.

**THIRD READING RESCINDED** this 12<sup>th</sup> day of March, 2020.

**THE AMENDED BYLAW WAS READ A THIRD TIME** this 12<sup>th</sup> day of March, 2020.

**APPROVED BY THE MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE STRATEGY** this [ ] day of [ ], 2020.

**NOTICE GIVEN UNDERS SECTION 59(2)(A) AND (3) OF THE COMMUNITY CHARTER** on this 7<sup>th</sup> day of February, 2020 and this 10<sup>th</sup> day of March, 2020.

**OPPORTUNITY TO MAKE REPRESENTATIONS TO COUNCIL UNDER SECTION 59(2)(B) PROVIDED** this 11<sup>th</sup> day of February, 2020 and this 12<sup>th</sup> day of March, 2020.

**ADOPTED** this this [ ] day of [ ], 2020.

**CERTIFIED A TRUE AND CORRECT COPY** of the “District of Ucluelet Single-Use Item Regulation Bylaw No. 1266, 2020.”

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Mayco Noël  
Mayor

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Mark Boysen  
Corporate Officer

**THE CORPORATE SEAL** of the  
District of Ucluelet was hereto  
affixed in the presence of:

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Mark Boysen  
Corporate Officer

## SCHEDULE "A"

### Fines and Penalties

Fines for tickets issued pursuant to this Bylaw shall be as follows:

| <b>Description of Offence</b>   | <b>Section #</b>      | <b>Fine - 1<sup>st</sup> Offence</b> | <b>Fine - if paid within 7 days</b> | <b>Fine - 2<sup>nd</sup> and Each Subsequent Offence</b> |
|---|-----------------------|--------------------------------------|-------------------------------------|--|
| Providing a Checkout Bag to a customer except as provided in the bylaw                        | 3(1)(a)               | \$100                                | \$75                                | \$200  |
| Providing a Plastic Drinking Straw to a customer except as provided in the bylaw              | 3(1)(b)               | \$100                                | \$75                                | \$200  |
| <b><u>Providing a Polystyrene Foam Food Service Ware for Prepared Foods to a customer</u></b> | <b><u>3(1)(c)</u></b> | <b><u>\$100</u></b>                  | <b><u>\$75</u></b>                  | <b><u>\$200</u></b>                                      |
| Denying or discouraging customer's own Checkout Bag or Drinking Straw                         | 3(4)                  | \$100                                | \$75                                | \$200  |