

## BY-LAW NO. HAM-2023-11

### A BY-LAW OF HAMPTON RESPECTING THE REDUCTION OF SINGLE-USE PLASTIC BAGS.

*BE IT ENACTED* by the Council of Hampton under the authority vested in it by the *Local Governance Act*, S.N.B., 2017, c. 18, as follows:

#### 1. Title

This by-law may be cited as the "Plastic Bag Reduction By-Law".

#### 2. Definitions

In this by-law:

- a) "**business**" means any corporation, individual, partnership or co-operative association engaged in a retail operation and, for the purposes of section 3, includes a person employed by, or acting on behalf of: a business;
- b) "**checkout bag**" means: 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 a bag used to package take-out food or food to be delivered, and includes a paper bag or plastic bag, but does not include a reusable bag.
- c) "**Council**" means the Council of Hampton;
- d) "**paper bag**" means a bag made out of paper that is recyclable;
- e) "**plastic bag**" means any bag made with plastic, including biodegradable plastic or compostable plastic, but does not include a reusable bag;
- f) "**reusable bag**" means a bag with handles that are:
  - (a) designed and manufactured to be capable of at least 100 uses, and
  - (b) primarily made of cloth or other durable material suitable for reuse.
- g) "**small paper bag**" means any bag made out of paper that is less than 15 centimeters by 20 centimeters when flat.

#### 3. Checkout Bag Prohibition

- (1) Except as provided in this by-law, no business shall provide a checkout bag to a customer that is a plastic bag.
- (2) No business shall deny or discourage the use by a customer of the customer's own reusable bag for the purpose of transporting items purchased or received by the customer.

#### **4. Exemptions**

(1) Section 3 does not apply to:

(a) bags used to -

- i) package loose bulk items such as fruit, vegetables, nuts, grains or candy;
- ii) package loose small hardware items such as nails and bolts;
- iii) contain or wrap frozen foods, meat, poultry or fish, whether pre-packaged or not;
- iv) wrap flowers or potted plants;
- v) protect prepared foods or bakery goods that are not pre-packaged;
- vi) contain prescription drugs received from a pharmacy;
- vii) transport live fish;
- viii) protect linens, bedding or other similar large items that cannot easily fit in a reusable bag;
- ix) protect newspapers or other printed material intended to be left at the customer's residence or place of business;
- x) protect clothes after professional laundering or dry cleaning; or
- xi) protect tires that cannot easily fit in a reusable bag.

(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, that are sold in packages of multiple bags.

#### **5. Enforcement**

(1) Every person duly appointed by Council as a by-law enforcement officer is hereby authorized to carry out any inspection that is necessary for the administration or enforcement of this by-law.

(2) Any peace officer or by-law enforcement officer is hereby authorized to take such actions, exercise such powers and perform such duties, as may be set out in this by-law or in the *Local Governance Act* and as they may deem to be necessary to enforce any provisions of this by-law.

## 6. Offences

- (1) Any person who violates any provision of this by-law is guilty of an offence and is liable on conviction to a fine.
- (2) The minimum fine for an offence committed under this by-law is one hundred and forty dollars (\$140) and the maximum fine for an offence committed under this by-law is two thousand one hundred dollars (\$2,100).
- (3) If an offence committed under this by-law continues for more than one (1) day:
  - (a) the minimum fine that may be imposed is the minimum fine established in this by-law multiplied by the number of days during which the offence continues; and
  - (b) the maximum fine that may be imposed is the maximum fine established in this by-law multiplied by the number of days during which the offence continues.
- (4) Contraventions -
  - (a) All contraventions of this by-law are designated by-law contraventions that may be dealt with by a notice of penalty pursuant to the provisions of the *Local Governance Act*.
  - (b) a person to whom a penalty notice is delivered may pay the administrative penalty on or before a charge pertaining to the offence has been laid in Provincial Court as follows:
    - (c) A person who pays the administrative penalty shall be deemed to have contravened the provisions of Section 3 of this by-law and shall not be charged with an offence in respect of the same incident that gave rise to the administrative penalty.
    - (d) If the administrative penalty is not paid in accordance with this Section, the person may be charged with an offence pursuant to Section 6 of this by-law.

**7. Severability**

Where a Court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the Court makes an order to the contrary.

**READ FIRST TIME:** March 14, 2023

**READ SECOND TIME:** March 14, 2023

**READ THIRD TIME AND ENACTED:** April 11, 2023

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Robert Doucet, Mayor

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Megan O'Brien Harrison, Director of Legislative Services