

TOWN OF FORT FRANCES

BY-LAW NO. 11/20

Being a by-law in respect of single-use plastic bags and certain other harmful single-use products and packaging materials within the Town of Fort Frances.

WHEREAS:

- A. The *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “**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 11(2)[5] of the *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;
- C. Section 11(3)[3] of the *Act* provides that a municipality may pass by-laws respecting matters relating to waste management;
- D. Section 128 of the *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;
- E. Section 150 of the *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;
- F. It is estimated that:
 - i. every year, 1 to 5 trillion plastic bags are used and discarded around the world;
 - ii. 10,000 tonnes of plastic debris enters the Great Lakes each year,
 - iii. globally, a truck load of plastic waste enters the ocean every minute, with the ‘Great Pacific Garbage Patch’ having grown to over 600,000 square miles, and
 - iv. a town of 2,500 households could send a million plastic bags to landfills ever year;
- G. Plastic bags and other single-use products are linked to, exacerbate, or contribute to the global crisis of climate change by causing habitat destruction, eco-system disruption, fossil fuel emissions, plastic pollution, environmental contamination, and food supply impacts;
- H. Alternatives to single-use plastic bags and other single-use products 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;
- I. The Northwestern Ontario Municipal Association adopted a resolution in April 2011 calling on the Province of Ontario to “enact legislation imposing a ban on the distribution of single-use fossil-fuel based plastic bags”;
- J. In the opinion of Council of the Town of Fort Frances, single-use plastic bags and certain other single-use products, packaging materials, and disposable food consumption products are a public nuisance and detrimental to the environment; and

K. Council wishes to:

- i. reduce the negative effects single-use plastic bags and certain other single-use products and packaging materials have on the environment,
- ii. show leadership among local governments in the fight against climate change and environmental destruction,
- iii. support sustainable consumer habits and business practices which reduce environmental impacts,
- iv. implement policies which support the growth of a modern, vibrant, and sustainable forest products sector; and
- v. reduce the volume of single-use plastics and related products which are destined for landfills;

NOW THEREFORE the Council of the Town of Fort Frances hereby enacts as follows:

PART 1: INTERPRETATION

1.1 **Definitions.** In addition to the terms defined parenthetically herein, in this by-law:

- (1) **“Biodegradable Plastic Bag”** or **“Compostable Plastic Bag”** means any bag which is composed of, in whole or part, biodegradable plastic, oxo-biodegradable plastics, Plastarch material, polylactide, or any other plastic resin composite that is intended to degrade at a faster rate than non-biodegradable plastic film;
- (2) **“Business”**:
 - (a) includes a business incorporated under a statute, a partnership, a cooperative, an association, a sole proprietorship, or a joint venture engaged in a retail sale or rentals of goods, the operation of a restaurant, or the sale of prepared foods or beverages to the public,
 - (b) does not include a charity, and
 - (c) for the purposes of Part 2, includes any person employed by or acting for or on behalf of a business, as defined by subsubsections (a) and (b);
- (3) **“Checkout Bag”** means:
 - (a) a 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, and
 - (b) a bag used to package take-out food or food to be delivered by a Business to a Customer.
- (4) **“Council”** means the municipal council of the Town;
- (5) **“Customer”** means any person purchasing, renting, or receiving food, goods, or materials from a Business;
- (6) **“Licensed Business”** means an entity which holds a business license issued by the Town under any by-law for the licensing of businesses by the Town;
- (7) **“Officer”** means a municipal law enforcement officer while in the course of his or her duties;
- (8) **“person”** means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives of the person to whom the context can apply according to law;
- (9) **“Plastic Bag”** means a bag, including a Biodegradable Plastic Bag or Compostable Plastic Bag, but does not include a Reusable Bag;

- (10) **“Prepared Food or Beverages”** means food items or beverages which are ready to consume with no additional preparatory stages or cooking, including take-out food, dine-in restaurant meals, hot beverages, delivery food items, soft drinks, and coffee or hot drinks;
- (11) **“Reusable Bag”** means a bag with handles that:
- (a) is intended to be used for transporting items purchased or received by the Customer from a Business,
 - (b) is designed and manufactured to be durable and capable of many uses, and
 - (c) is capable of being washed and disinfected;
- (12) **“Single-Use Food Packaging”** means the following items provided by a Business to a Customer for the purpose of transporting, packaging, or consuming Prepared Food or Beverages:
- (a) food containers, beverage cups, or take-out or ‘to-go’ food containers consisting in whole or part of foam material, such as polystyrene, and
 - (b) drinking straws, stir-sticks, or swizzle sticks made of a plastic, such as polypropylene or polystyrene; and
- (13) **“Town”** means the Town of Fort Frances.

PART 2: REGULATIONS

- 2.1 **Ban of Plastic Bags.** Except as provided in this by-law, no Business shall sell or provide a Checkout Bag to a Customer that is a Plastic Bag.
- 2.2 **Reusable Bags Allowed.** 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 from the Business.
- 2.3 **Ban of Single-Use Food Packaging.** No Business shall sell or provide Single-Use Food Packaging to a Customer for the purpose of transporting, containing or facilitating the consumption of Prepared Food or Beverages received by the Customer from the Business.
- 2.4 **Exceptions.**
- (1) Section 2.1 does not apply to a bag used to:
- (a) package loose bulk items such as fruit, vegetables, nuts, grains, or candy;
 - (b) package loose small hardware items, such as nails, nuts, 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 clothing or other linens after professional laundering or dry-cleaning;
 - (i) package medical supplies and items used in the provision of health services;
 - (j) protect tires that cannot easily fit in a reusable bag; or
 - (k) collect and dispose of pet waste.
- (2) Sections 2.1 and 2.3 do not limit or restrict the sale of bags (including Plastic Bags) or Single-Use Food Packaging intended for use at the Customer’s home or business, provided the items are sold in packages of multiple quantities and are not utilized or distributed in the manner restricted by Sections 2.1 and 2.3.

- (3) Section 2.3 does not prohibit a Business from providing a Customer with a plastic drinking straw upon individual request, provided that plastic drinking straws are not made available by the Business by default or made accessible for Customer self-service. When requesting a plastic drinking straw, the Customer does not need to specify a reason for needing a plastic drinking straw in order to receive one. Nothing in this by-law obligates a business to carry plastic drinking straws for use by Customers.

PART 3: PENALTIES

3.1 Offences. A person who:

- (1) contravenes this by-law;
- (2) consents to, allows, or permits an act or thing to be done contrary to this by-law; or
- (3) neglects or refrains from doing anything required to be done by this by-law;

is guilty of an offence and is liable to pay a fine in the amount prescribed by the Officer in accordance with section 3.2.

3.2 Penalties.

- (1) A person found guilty of an offence under this by-law is subject to a fine:
 - (a) if a corporation or Licensed Business, 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 \$500.00for every instance than offence occurs or each day that it continues.
- (2) Council may introduce a schedule of fines for the offences set out in this by-law within the parameters set by subsection (1), with such schedule to be appended hereto as **Schedule “A”** at such time and amended and updated as necessary.

PART 4: ENFORCEMENT

4.1 Enforcement by Officer. The provisions of this by-law may be enforced by an Officer.

4.2 Entry by Officer. An Officer may, at any reasonable time, enter upon any public place for the purpose of determining whether or not the provisions of this by-law have been complied with.

4.3 Interference with Officer. No person shall prevent, hinder, interfere, or attempt to prevent, hinder, or interfere with an Officer, including refusing to identify themselves when requested to do so by an Officer.

PART 5: GENERAL

5.1 Short Title. This by-law shall be referred to and may be cited as the “Single-Use Products Regulation By-law”.

5.2 Severability. 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.

5.3 Effective Date.

- (1) All sections of this by-law except for section 3.2 shall come into force on January 1, 2021.
- (2) Section 3.2 of this by-law shall come into force on January 1, 2022.

5.4 **Recall Date.** This by-law shall be brought before Council for reconsideration at the first available meeting of Council following the date that:

- (1) a piece of legislation of substantially similar purpose and regulatory effect over the Town is passed by the Ontario Legislative Assembly or federal Parliament and receives Royal Assent, or
- (2) a federal or provincial regulation of substantially similar purpose or regulatory effect over the Town comes into force.

READ THREE (3) TIMES and finally passed in open Council this 27th day of January, 2020.

June Caul, Mayor

Elizabeth Slomke, Clerk