

Staff Report



To	City Council
Service Area	Infrastructure, Development and Enterprise Services
Date	Wednesday, September 14, 2022
Subject	Single-Use Items Update

Recommendation

1. That Council approve Phase 1 of the updated Single-Use Items Reduction Strategy as presented in the Solid Waste Management Master Plan Recommendations staff report on April 4, 2022, with changes that align with the Government of Canada’s recently released Single-Use Plastics Prohibition Regulations and the proposed new Single-Use Items By-law (2022) - 20701.
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Executive Summary

Purpose of Report

The purpose of this report is to inform Council of the recently released Federal government’s [Single-use Plastics Prohibition Regulations \(SOR/2022-138\)](#) (“Regulations”) enacted using authorities provided by the [Canadian Environmental Protection Act, 1999, \(S.C. 1999, c. 33\)](#) and its impacts on the City’s single-use items reduction strategy, to provide feedback received from the Accessibility Advisory Committee, to seek approval of changes to the Waste Management By-law draft wording previously approved by Council on April 25, 2022 to align with the Regulations, and to seek approval for the proposed new Single-Use Items By-law (2022) – 20701; appended to this report as Attachment-1.

Key Findings

On April 25, 2022, [Council approved phase 1 of the single-use items reduction strategy](#) and the applicable draft wording changes to the Waste Management By-law, which included a ban on plastic straws (with the exception that plastic straws would be available on demand), plastic shopping bags (with the exception of certified compostable bags), and polystyrene foam containers and cups (with the exception of selling in packages of 5 or more, or providing charitable food services during the period of time that an emergency is declared).

Council also directed staff to engage further with the Accessibility Advisory Committee (“AAC”) for further consideration on the elimination of plastic straws and that both staff and the AAC recommendations come forward prior to implementation of the By-law in September 2022, with a start date of January 1, 2023.

Prior to staff meeting with the AAC, the Federal government released the [Regulations](#) on June 22, 2022, which bans six categories of harmful single-use

plastics including checkout bags, cutlery, foodservice ware made from or containing problematic plastics, ring carriers, stir sticks and straws. Section 14(1)(a) of the [Municipal Act, 2001, S.O. 2001, c. 25](#) ("Municipal Act") provides that a Municipal by-law is without effect to the extent of any conflict with a provincial or federal Act or a regulation made under such Act. Accordingly, those portions of a municipal by-law that conflict with the Regulations are without effect and the Regulations will govern.

Staff met with the AAC on July 5, 2022, to inform members on the recently released Federal Regulations and its impacts to the City's single-use items reduction strategy and to request further feedback. Based on earlier feedback received from the AAC on April 19, 2022, staff had proposed an exemption for restaurants to provide a single-use plastic straw to any customer who requests a straw. Unfortunately, the Regulations provides restrictions on their sale and restaurants can no longer provide them to customers. As a result, staff recommend that the City no longer move forward with a single-use plastic straw ban ahead of the Regulations and approve the proposed new Single-Use Items By-law (2022) - 20701.

The Regulations also prohibit selling certified compostable plastic shopping bags. Staff recommend that Council approve the removal of the exemption for certified compostable plastic shopping bags in the City's single-use items reduction strategy and approve the proposed new Single-Use Items By-law (2022) - 20701. Certified compostable bags sold in multiples intended to hold organic waste meant for composting are not impacted by the Regulations and can still be sold.

Additionally, several exemptions for polystyrene foam containers and cups included in the City's single-use items reduction strategy are no longer valid as the Regulations further restrict their access (e.g., selling in packages of 5 or more, providing charitable food services during the period of time that an emergency is declared). Staff recommend that Council approve the removal of these exemptions and approve the proposed new Single-Use Items By-law (2022) - 20701.

Staff are recommending that increasing awareness through outreach and education will help surface potential solutions to support accessibility needs with the business community.

The City has aligned the single-use items reduction strategy with the Regulations which required changes to the by-law draft wording previously approved by Council, now the proposed new Single-Use Items By-law (2022) - 20701, including the removal of the City's plastic straw ban, changes to accepted alternative bags in lieu of the banned plastic shopping bags, and removal of some exemptions for polystyrene foam containers and cups.

Financial Implications

The funding for the implementation of the single-use items reduction strategy will be prioritized using existing funding within the Council approved Solid Waste Resources budget.

Report

Background

On April 25, 2022, [Council approved phase 1 of the single-use items reduction strategy](#) and the applicable draft wording changes to the Waste Management By-law, which included a ban on plastic straws (with the exception that plastic straws would be available on demand), plastic shopping bags (with the exception of certified compostable bags), and polystyrene foam containers and cups (with the exception of selling in packages of 5 or more or providing charitable food services during the period of time that an emergency is declared).

Council also directed staff to engage further with the AAC for further consideration on the elimination of plastic straws and that both staff and the AAC's recommendations come forward prior to implementation of the By-law in September 2022, with a start date of January 1, 2023.

Prior to staff meeting with the AAC, the Federal government released the [Regulations](#) on June 22, 2022, which will come into effect on a staggered timeline starting on December 20, 2022. Pursuant to section 14(1)(a) of the [Municipal Act](#) a Municipal by-law is without effect to the extent of any conflict with a provincial or federal Act or a regulation made under such Act. Accordingly, those portions of a municipal by-law that conflict with the Regulations are without effect and the Regulations will govern.

As a result, the City has aligned the single-use items reduction strategy with the Regulations which required changes to the by-law draft wording previously approved by Council, now the proposed new Single-Use Items By-law (2022) - 20701, including the removal of the City's plastic straw ban, changes to accepted alternative bags in lieu of the banned plastic shopping bags and removal of some exemptions for polystyrene foam containers and cups.

Federal Actions on Single-Use Plastics

The Federal government has conducted extensive public consultations and scientific research confirming that plastic products are harmful and warrant prohibition. On June 22, 2022, the Government of Canada released the [Regulations](#), which bans six categories of harmful single-use plastics including checkout bags, cutlery, foodservice ware made from or containing problematic plastics, ring carriers, stir sticks and straws. The Regulations come into effect on a staggered timeline starting on December 20, 2022.

Single-use plastic checkout bags, cutlery, ring carriers, stir sticks and straws made from non-conventional plastics, such as polylactic acid ("PLA"), are prohibited under the Regulations. For foodservice ware, only items made from or containing problematic plastics are prohibited including polyvinyl chloride, polystyrene foam, oxo-degradable plastic, and black plastic made with carbon black. Foodservice ware made from other types of conventional (derived from oil and gas) and non-conventional plastics are not prohibited under the Regulations.

Single-use plastic checkout bags, cutlery, and straws can have reusable substitutes that are also made of plastic and are not subject to the Regulations. The Regulations include performance criteria to differentiate between single-use and reusable items for these product categories such as being able to withstand a

change to its physical properties after being run through a household dishwasher 100 times.

The Federal ban applies to the manufacture, import and sale in Canada, and the manufacture, import and sale for export.

Timeline of the Federal Single-Use Plastics Prohibition Regulations

Single-use plastic item	Manufacture and import for sale in Canada	Sale in Canada	Manufacture, import and sale for export
Checkout bags, cutlery, foodservice ware, stir sticks, straws	December 20, 2022	December 20, 2023	December 20, 2025
Ring carriers	June 20, 2023	June 20, 2024	December 20, 2025
Flexible plastic straws packaged with beverage containers	NA	June 20, 2024	December 20, 2025

Impacts to the City’s Single-Use Items Reduction Strategy

The Regulations impact phase 1 of the City’s single-use items reduction strategy including the ban on plastic straws, plastic shopping bags and polystyrene foam containers and cups.

Under the constitutional doctrine of federal paramountcy, a provincial law or municipal by-law is “read down” to the extent of conflict with a federal law. Thus, federal regulations supersede municipal by-laws.

The Regulations make it clear that the Federal government interprets any rule which provides for broader access to single-use plastic straws than the Regulations provide as being ineffective now that the Regulations are in place.

Single-Use Plastic Straws

Effective December 20, 2022, the manufacture and import of single-use plastic straws for sale in Canada are banned per the Regulations. Effective December 20, 2023, single-use plastic straws will no longer be available for sale. The ban applies to single-use plastic straws made wholly or partly of plastic that “contains polystyrene or polyethylene; or changes its physical properties after being run through an electrically operated household dishwasher 100 times.” Thus, the ban applies to single-use plastic straws made from conventional (derived from oil and gas) and non-conventional plastic (such as PLA or other compostable plastics).

The Regulations still allow the manufacture and import of single-use plastic (SUP) flexible straws made from conventional and non-conventional plastic, but there are restrictions on the sale of SUP flexible straws, including:

- They will still be available for purchase in packages of 20 or more for personal use but retailers cannot display packages of SUP flexible straws in stores;
- A restaurant cannot provide a SUP flexible straw to a customer, but a customer can bring a SUP flexible straw with them to use and can provide them to others in their social group at the restaurant; and
- Care institutions may continue to purchase SUP flexible straws in packages of 20 or more and provide them to patients or residents.

Feedback from the Accessibility Advisory Committee

Staff met with the AAC on July 5, 2022, to inform members on the recently released Federal Regulations and its impacts to the City's single-use items reduction strategy and to request further feedback.

Based on earlier feedback received from the AAC on April 19, 2022, staff proposed an exemption for restaurants to provide a single-use plastic straw to any customer who requests a straw. However, as per the Regulations, restaurants are prohibited from providing a single-use plastic straw to a customer. If a customer requires a plastic straw, they must bring a SUP flexible straw with them to use and can provide SUP flexible straws to others in their social group at the restaurant. Food establishments can continue to provide paper straws or reusable straws made from durable plastic or other reusable materials such as metal.

The AAC was encouraged to provide feedback or delegate at the Council meeting on September 14, 2022, relative to workability and potential barriers presented by the Regulations to bring about awareness and potential support that could be provided.

Staff recommends that the City no longer move forward with a single-use plastic straw ban for January 1, 2023, and that Council approve the removal of the plastic straw ban from phase 1 of the single-use items reduction strategy in the previous by-law draft wording, now the proposed new Single-Use Items By-law (2022) - 20701.

Certified Compostable Plastic Shopping Bags

The Regulations prohibit selling certified compostable plastic shopping bags. Thus, a certified compostable plastic shopping bag is not an acceptable alternative bag to use in lieu of a plastic shopping bag. Staff have removed the exemption for certified compostable plastic shopping bags in the previous by-law draft wording, now the proposed new Single-Use Items By-law (2022) - 20701.

Certified compostable bags sold in multiples intended to hold organic waste meant for composting are not impacted by the Regulations.

Plastic Shopping Bag Alternatives

At the AAC meeting on April 19, 2022, staff discussed alternative bags to use in lieu of plastic shopping bags, including reusable bags and paper shopping bags. The following motion was put forward by the AAC:

- To recommend that the by-law item regarding a ban of plastic bags be amended to include alternate bags with two reinforced handles.

Staff contacted local businesses that currently use paper bags to discuss the feasibility of changing to a paper bag with two reinforced handles. Staff were informed by these businesses that they do not have control over the paper bags

they receive for their local stores as they are part of a national brand and use a national supplier.

These businesses would be automatic violators in breach of the By-law. It would be challenging for the City to institute a By-law requirement knowing that some businesses cannot comply with the changes and have already given us their feedback related to the change. It would be difficult to enforce and establish an appropriate consequence.

Staff recommend that increasing awareness through outreach and education will help surface potential solutions to support accessibility needs with the business community. Businesses can be encouraged to supply alternative bags with two reinforced handles.

Additionally, customers will be encouraged to bring their own reusable bags for the purpose of transporting items purchased or received by the customer from a business.

Polystyrene Foam

Foodservice ware designed for ready to be consumed food or beverages that contain expanded or extruded polystyrene foam are banned under the Regulations. The City's single-use items reduction strategy proposed several exemptions for polystyrene foam containers and cups that contravene the Regulations (e.g. selling in packages of 5 or more, providing charitable food services during the period of time that an emergency is declared). Staff have removed the exemptions from the previous by-law draft wording, now the proposed new Single-Use Items By-law (2022) - 20701 to align with the Regulations.

Outreach and Education

Staff will conduct outreach and education for the single-use items reduction strategy through in-person engagement and various communications tactics in Q4 2022 to support understanding and compliance with the Council-approved changes to ensure success of the program. The ban on plastic shopping bags and polystyrene foam containers and cups comes into effect January 1, 2023.

Financial Implications

The funding for the implementation of the single-use items reduction strategy will be prioritized using existing funding within the Council approved Solid Waste Resources budget.

Consultations

Staff attended two AAC meetings: April 19, 2022, and July 5, 2022. The purpose of these engagements was to discuss and receive feedback from the AAC on the City's single-use items reduction strategy. After the initial AAC meeting and prior to the meeting on July 5, the Federal Regulations were released. Staff provided an update on the Regulations and its impacts to the City's single-use items reduction strategy for further feedback.

As part of the Solid Waste Management Master Plan process, two public surveys facilitated by Economic Development and Tourism were released in 2020 and 2021. Participants from the surveys were very supportive of phase 1 and phase 2 recommendations to reduce the number of single-use items in Guelph with 80 per cent of respondents either strongly or somewhat agreeing that even if the Federal

government does not implement a ban on single-use items, Guelph should still implement strategies to eliminate or reduce single-use items.

Internal Consultation

Internal consultation and input into the single-use items reduction strategy included Legal, Realty and Court Services, Economic Development and Tourism, By-law and Security Services, Environmental Services, Strategic Communications and Community Engagement, and Culture and Recreation.

Strategic Plan Alignment

Sustaining our Future

- The overall direction of the single-use items reduction strategy is improved resource management through zero-waste principles, greater recovery, waste reduction, reuse, and recycling; including promotion of design-for-the-environment that would increase the environmental performance of Solid Waste programs.
- The single-use items reduction strategy demonstrates a care for the local environment by reducing waste generated in the community that contributes to litter and to climate change through a reduction in consumption and disposal.

Working Together for our Future

- City staff leveraged a partnership with the University of Guelph's Idea Congress ("ICON") program to explore viable options to reduce and/or eliminate single-use items, which assisted in the development of the single-use items reduction strategy.

Attachments

Attachment- 1: Proposed New Single-Use Items By-law (2022) - 20701

Departmental Approval

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