



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Draft By-law to Enact City Council's Decision to Prohibit Single-Use Plastic Carryout (Shopping) Bags, and Industry Comments on the Draft By-law and Implementation Plan**

<b>Date:</b>	October 31, 2012
<b>To:</b>	Public Works and Infrastructure Committee
<b>From:</b>	General Manager, Solid Waste Management Services City Solicitor
<b>Wards:</b>	All
<b>Reason for Confidential Information:</b>	This report contains communications or advice that are subject to solicitor-client privilege.
<b>Reference Number:</b>	P:\2012\Cluster B\SWM\November\014PW (AFS #16579)

## **SUMMARY**

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This report is in response to City Council's direction to submit the draft plastic carryout bag by-law and to report on the outcome of the consultation with industry stakeholders on the draft by-law and implementation plan.

## **RECOMMENDATIONS**

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**The General Manager, Solid Waste Management Services, and the City Solicitor recommend that:**

1. City Council implement the decision from its meeting of June 6 to 8, 2012 to prohibit retail stores from distributing single-use plastic carryout (shopping) bags to customers, effective January 1, 2013, by enacting an amendment to Municipal Code Chapter 604, Packaging substantially in the form of the draft by-law attached to this report, subject to such stylistic or technical amendments as may be required by the City Solicitor.
2. The information contained in the Confidential Attachment remain confidential in its entirety as it contains advice or communications that are subject to solicitor-client privilege.

## **Financial Impact**

The cost to communicate and educate retailers and residents on the single-use plastic carryout shopping bag ban will be approximately \$400,000; \$25,000 in 2012 and \$375,000 in 2013. Funds are available in Operating Budget Cost Centre SW0703, Cost Element 4414 in Solid Waste Management Service's Approved 2012 Operating Budget and 2013 Recommended Operating Budget Submission.

Municipal Licensing and Standards expect that there will be a financial and resource impact if this by-law is enacted by City Council. Municipal Licensing and Standards will determine appropriate enforcement based on the implementation plan discussed later in the report below and are working with Solid Waste Management Services on an analysis to determine the enforcement costs.

It is anticipated that there can be some minor cost savings to the City as a result of having to manage less plastic bags in the waste and recycling streams. However, it is not possible to quantify at this time actual savings, as it is unknown how much plastic garbage or kitchen catcher liner bags residents will be used in place of plastic grocery bags previously used.

The Acting Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information

## **DECISION HISTORY**

At its meeting of December 1, 2 and 3, 2008, City Council adopted a motion effective June 1, 2009, that would require Toronto retailers to charge a minimum of \$0.05 for plastic retail shopping bags.

The City Council Decision document (PW20.1 Proposed Measures to Reduce In-Store Packaging Waste and Litter, Municipal Hazardous and Special Waste and Plastic Water Bottles) can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-12-01-cc27-dd.pdf>

At its meeting of June 6, 7 and 8, 2012, City Council declared the Plastic Bag Fee program a success and moved to rescind the Plastic Bag Fee, effective July 1, 2012, which will no longer require retailers to charge 5 cents for a plastic bag. Also at the June 6, 7 and 8, 2012 meeting, City Council adopted a motion that will prohibit retailers from distributing single-use plastic carryout (shopping) bags to customers, effective January 1, 2013.

The City Council Decision document (EX20.2 Voluntary Contributions of Plastic Bag Fee Proceeds) can be viewed at:

<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilDecisionDocumentReport&meetingId=5664>

Also at its meeting of June 6, 7 and 8, 2012, City Council enacted By-Law No. 802-2012 to amend Chapter 604- Packaging to implement City Council's decision to rescind the Plastic Bag Fee, effective July 1, 2012.

At its of October 2, 3 and 4, 2012 meeting, City Council adopted a motion that directs the General Manager of Solid Waste Management Services to consult with industry stakeholders on the draft by-law prepared by the City Solicitor, including an implementation plan for the by-law, and that further directs the General Manager to report to Public Works and Infrastructure Committee on the feedback from such consultations and any other issues related to the by-law. The motion also directs the City Solicitor to submit the draft by-law to Public Works and Infrastructure Committee for deputations.

The City Council Decision document (CC26.1 City Council's June 6, 7, and 8, 2012 Decision to Prohibit Single-Use Plastic Carryout (Shopping) Bags) can be viewed at:

<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilDecisionDocumentReport&meetingId=5666>

## **ISSUE BACKGROUND**

Enactment of a by-law is necessary to further implement City Council's June 6, 7, and 8, 2012 decision to prohibit single-use plastic carryout shopping bags effective January 1, 2013. City Council's October 2, 3 and 4, 2012 decision provided an opportunity for Solid Waste Management Services to consult with industry stakeholders on the draft by-law and implementation plan.

## **COMMENTS**

### **Draft By-law**

Attachment 1 is the draft by-law prepared by the City Solicitor, in consultation with Solid Waste Management Services. Attachment 2 is a confidential attachment from the City Solicitor respecting the enactment of the by-law.

### **Stakeholder Consultation**

In order to address City Council's direction of October 4, 2012, staff invited members of the retail and plastics manufacturing industries to attend a meeting to discuss Toronto's draft single-use plastic carryout shopping bag ban by-law on October 19, 2012. The meeting specifics were also posted on Solid Waste Management's website. Invitees had the choice of a morning meeting at the North York City Centre or an afternoon meeting at Toronto City Hall. Written submissions were accepted for those who were unable to attend either meeting. Invitees were also advised that they have the opportunity to make a deputation at the November 14, 2012 Public Works and Infrastructure Committee.

The following organizations were invited to attend the meeting: Retail Council of Canada, Canadian Restaurant and Foodservices Association, Canadian Federation of Independent Grocers, Canadian Drug Store Association, Ontario Hotel, Motel and Restaurant Association, Toronto Association of Business Improvement Areas and the Canadian Plastics Industry Association.

The purpose of the consultation was to hear from members of the retail sector about the draft by-law and its implementation. Those attending were representatives from the Retail Council of Canada, Toronto Association of Business Improvement Areas and the Canadian Plastics Industry Association. A separate letter on behalf of the Ontario Convenience Stores Association objecting to the consultation process was received by the City's Legal Services Division.

Solid Waste Management Services presented the draft amended code and proposed implementation plan. Following the presentation, industry stakeholders had an opportunity to discuss and comment on sections of the draft amended code and implementation plan.

### **Stakeholder Comments from Consultation**

Attachment 3 summarizes the issues raised by industry stakeholders during the consultation. Written comments from the Canadian Restaurant and Foodservices Association and the Canadian Plastics Industry Association were also submitted to Solid Waste Management Services and are attached as Attachment 4 and 5 respectively.

## **Adjustments to Draft By-law**

The comments that were received from industry stakeholders were given consideration in preparing the draft by-law that is provided in Attachment 1. In particular, clarifications were made to the definition of “Single Use Plastic Carryout (Shopping) Bag.”

## **Implementation**

A major issue that was re-occurring in the consultation process is that retailers would not be ready for a start up of January 1, 2013, particularly without a by-law being enacted until November 27 and 28, 2012 at the earliest. As indicated in the summary of comments in Attachment 3, time is required to deplete existing stocks of plastic bags, source alternative bags, reconfigure checkout stations and train staff. As well, these changes would have to be made during December, the most important and busiest sales month for retailers.

Based on the consultation, staff intends to use a staged implementation plan in which the issuance of citations that leads to fines and penalties be delayed until July 1, 2013. In addition, between January 1 and June 30, 2013, any interaction with Municipal Licensing and Standards (MLS) and retail outlets be of an educational nature only. MLS officers observing a retailer that is not complying with the ban would remind the retailer of the ban and provide educational materials about the policy during this period.

This phased approach is consistent with the January 1, 2013 effective date that City Council decided for the ban. However, it should be noted that even this phased approach may still raise store/customer issues as consumers entering retail stores may expect to see no plastic bags starting January 1 but in reality may still see them being given out.

## **Communications Plan**

The purpose of the communications and public education outreach will be to inform both Toronto retail establishments and the public of City Council's decision to ban Toronto retailers from providing plastic carryout shopping bags and to provide additional information on the by-law. Relying on past experience and feedback received in the October 19, 2012 industry consultation sessions, the City will use similar measures to those undertaken in 2009 to promote the plastic shopping bag fee. Staff will communicate to affected retailers via direct mail; post updates on the City's website; produce and distribute in-store signage for retailers to notify customers of the ban; liaise with industry associations to establish further public education channels to affected members; media relations; and produce an advertising campaign. The implementation of the communication plan will begin in December 2012 and will continue into the spring and summer months of 2013.

## Other Issues

As the diversion benefits diminish as a result of repealing the 5 cents plastic bag charge, City staff anticipate that, if enacted, this by-law could generate waste diversion for the City as a result of having to manage fewer plastic bags in the waste and recycling streams. However, at this time, quantifying the exact amount of diversion from this draft by-law is not possible because City staff can not yet assess how many plastic garbage or kitchen catcher liner bags residents will purchase and use as a substitute for the single use plastic retail (shopping) bags that the draft by-law prohibits. Nevertheless, diversion of plastic bags that results from a measure such as this by-law has the potential to contribute to the City's 70% diversion target and the general protection of human health, the environment, and the conservation of natural resources.

## CONTACT

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## SIGNATURE

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Jim Harnum, CET, MBA  
General Manager  
Solid Waste Management Services

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Anna Kinastowski  
City Solicitor

## ATTACHMENTS

Attachment 1 - Draft By-law

Confidential Attachment 2

Attachment 3 - Industry Comments from Consultation Session on October 19, 2012

Attachment 4- Written comments from Canadian Restaurant and Foodservices Association

Attachment 5- Written comments from the Canadian Plastics Industry Association