

PROVINCE OF BRITISH COLUMBIA
REGULATION OF THE MINISTER OF
ENVIRONMENT AND CLIMATE CHANGE STRATEGY


Community Charter

Ministerial Order No. M309

I, George Heyman, Minister of Environment and Climate Change Strategy, order that the Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation, B.C. Reg. 144/2004, is amended as set out in the attached Schedule.

July 26, 2021

Date



Minister of Environment and Climate Change Strategy

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Community Charter*, S.B.C. 2003, c. 26, s. 9 (4)

Other: *M71/2004*

R10476196

SCHEDULE

- 1 The Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation, B.C. Reg. 144/2004, is amended by repealing section 1 and substituting the following:*

PART 1 – INTERPRETATION

Definition

- 1** In this regulation, “**Act**” means the *Community Charter*.

PART 2 – PEST MANAGEMENT

Definitions for Part 2

- 1.1** In this Part:

“**alien invasive species**” means the species listed in sections 1 and 2 of the Schedule;

“**dangerous wildlife**” has the same meaning as in the *Wildlife Act*;

“**excluded pesticide**” has the same meaning as in the Integrated Pest Management Regulation, B.C. Reg. 604/2004.

- 2 The following Part is added:*

PART 3 – PLASTIC WASTE REDUCTION

Definitions for Part 3 and interpretation

- 3** (1) In this Part:

“**accessible straw**” means a drinking straw made wholly of plastic that is not compostable or biodegradable, has a corrugated section that allows the straw to bend and maintain its position and is individually wrapped in paper;

“**checkout bag**” means a paper or plastic single-use supplementary bag;

“**introductory period**” means a period that may be set by a municipality during which there is a reduced minimum charge for the provision of a recycled paper bag or a reusable bag;

“**item**” means the applicable of the following:

- (a) a bag;
- (b) a service ware container;
- (c) a utensil;
- (d) a drinking straw;

“**plastic**” includes compostable and biodegradable plastic;

“**polystyrene foam**”, when used in reference to an item, means an item made primarily of polystyrene foam;

“**recycled paper bag**” means a paper checkout bag that meets the criteria described in subsection (2);

“reusable bag” means a bag that is designed and manufactured to be used and machine-washed at least 100 times;

“service ware container” means a container that is ordinarily provided for service of prepared food or beverages and includes a cup, plate, bowl, tray, carton or lidded container;

“single-use”, when used in reference to an item, means the item is provided for a single use or a short-term purpose;

“small paper bag” means a paper bag that is less than 15 cm by 20 cm when flat;

“stir stick” means an item that is designed and manufactured to stir beverages;

“supplementary”, when used in reference to an item, means an item that is provided to a customer by a business to facilitate the transport of a purchase from the business, or consumption of a product, including prepared food that is purchased for take-out or delivery;

“used bag” means a checkout bag or a reusable bag that has been previously used and is being reused;

“utensil” includes a spoon, fork, knife, chopstick or stir stick.

- (2) In order to be considered recycled for the purposes of this Part, a paper checkout bag must contain at least 40% recycled paper content, and have a reference printed on the outside of the bag to the applicable amount of recycled content with the word “recyclable”.

Application of this Part

- 4** The authority to make a bylaw under section 5 to regulate, prohibit and impose requirements in relation to the protection of the natural environment does not apply to the sale of single-use items that are sold as a product, ordinarily in sets of multiple items.

Authority of municipality

- 5** (1) For the purposes of section 9 (4) (a) (i) of the Act, a municipality may, by bylaw, regulate, prohibit and impose requirements in relation to the protection of the natural environment under section 8 (3) (j) of the Act as set out in this section and in accordance with this Part.
- (2) Subject to subsections (3), (4) and (5), a municipality may, by bylaw, do any of the following:
- (a) prohibit a business from providing any of the following single-use supplementary items:
 - (i) checkout bags other than
 - (A) recycled paper bags, or
 - (B) used bags;
 - (ii) polystyrene foam service ware containers;
 - (iii) plastic utensils;
 - (iv) plastic drinking straws;

- (b) if the municipality has prohibited a business from providing checkout bags under paragraph (a) (i), require that a business provide a recycled paper bag or a reusable bag to a customer only on payment of a minimum charge for each bag, as follows:
 - (i) subject to subparagraph (ii), a charge of at least
 - (A) \$0.25 for each recycled paper bag, and
 - (B) \$2 for each reusable bag;
 - (ii) if the municipality sets an introductory period, a charge during the introductory period of at least
 - (A) \$0.15 for each recycled paper bag, and
 - (B) \$1 for each reusable bag;
 - (c) if paragraph (a) (iii) or (iv) does not apply, require that a business provide the following, as applicable, to a customer only on request by the customer:
 - (i) a single-use utensil;
 - (ii) subject to the exemption under subsection (4), a drinking straw made of a material other than plastic;
 - (d) set out exemptions to the bylaw, including the exemption under subsection (4), if applicable, to the prohibitions and requirements under this subsection;
 - (e) require that a business report to the municipality the distribution of items governed by a bylaw made under this section.
- (3) If a municipality makes a bylaw prohibiting a business from providing checkout bags other than recycled paper bags under subsection (2) (a) (i),
 - (a) the bylaw must provide for the payment of a minimum charge for recycled paper bags or reusable bags under subsection (2) (b), and
 - (b) the bylaw must include an exemption from the payment of the minimum charge for the following:
 - (i) used bags;
 - (ii) small paper bags;
 - (iii) in the case of prescribed pharmaceutical drugs or devices, recycled paper bags.
 - (4) If a municipality makes a bylaw prohibiting plastic drinking straws under subsection (2) (a) (iv), the bylaw must have an exemption so that businesses would not be prevented from providing an accessible straw on request by a person with disabilities or due to medical reasons.
 - (5) The authority of a municipality to make a bylaw under this section does not include the authority to permit businesses to collect, use or disclose personal information for considering a person's entitlement to an exemption in respect of the bylaw.

**Exemptions to be considered and
plan for implementation and enforcement**

- 6** A municipality that intends to make a bylaw under section 5 must

- (a) consider appropriate exemptions in respect of the bylaw, including exemptions for
 - (i) persons with disabilities,
 - (ii) medical reasons,
 - (iii) a hospital or any facility licensed as a community care facility under the *Community Care and Assisted Living Act*, and
 - (iv) in the case of a charge referred to in section 5 (2) (b), reasons of financial hardship,
- (b) establish a plan for
 - (i) implementation of the bylaw, which may include setting an introductory period of not more than 12 months for the charge referred to in section 5 (2) (b) (ii), and
 - (ii) enforcement of the bylaw, and
- (c) set a date for the bylaw to come into force that is at least 6 months after the date the bylaw is adopted by council.

Charge not a fee payable to municipality

- 7** An amount charged in accordance with the authority referred to in section 5 (2) (b) must not be collected by the municipality as a fee payable to the municipality.