



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

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**To:** Council

**File No.:** 4320-20

**From:** Chief Administrative Officer

**Date:** December 16, 201

**Subject:** Single Use Plastics Regulation Bylaw 2970, 2019 - Enforcement Provisions

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### PURPOSE:

The purpose of this report is to consider a policy decision to not enforce Single Use Plastics Regulation Bylaw 2970, 2019 beginning March 31, 2020 as outlined in the bylaw.

### CAO RECOMMENDATIONS:

That based on the December 16, 2019 staff report "Single Use Plastics Regulation Bylaw 2970, 2019 – Enforcement Provisions", Council direct staff not to enforce Bylaw 2970, 2019 beginning March 31, 2020, pending more certainty of the regulatory approaches of the Provincial and Federal Governments; and

That Council direct staff to post notice on the City of Courtenay website advising that the City of Courtenay will not enforce penalties for committing an offence on the effective date identified in Section 8 of Bylaw No. 2970, 2019; pending the Supreme Court of Canada's decision on the validity of Victoria's plastic bag bylaw, and/or the outcome of the regulatory approaches proposed by the Provincial and Federal Governments.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

In June 2019, Council adopted Single Use Plastics Regulation Bylaw No. 2970, 2019 in an effort to reduce the creation of waste from single use items and the associated costs of maintaining municipal property, including but not limited to streets, sewers, parks and waterways. The bylaw came into force on July 1, 2019 however, the enforcement provisions are not effective until March 31, 2020.

Since the initiation Bylaw 2970 there have been a few significant events that may warrant reconsideration of enforcing the bylaw, pending their resolution. These include:

1. The court decisions related to the City of Victoria's Plastic Bag bylaw. In general, the BC Supreme Court and the BC Court of Appeal have found Victoria's bylaw to be *ultra vires*, or beyond their powers, based on the specific circumstances surrounding the adoption of that particular bylaw. This case is proceeding to the Supreme Court of Canada.
2. On June 10<sup>th</sup>, 2019 Prime Minister, Justin Trudeau, announced that the Government of Canada "will ban harmful single-use plastics as early as 2021 (such as plastic bags, straws, cutlery, plates, and stir sticks) where supported by scientific evidence and warranted, and take other steps to reduce pollution from plastic products and packaging".
3. On July 25<sup>th</sup>, 2019 the Province of British Columbia released a "Plastics Action Plan - Policy Consultation Paper" and initiated public engagement to solicit feedback on a path forward to reduce plastic pollution in BC. The engagement period closed on September 30, 2019 but results have not yet been released.

#### **DISCUSSION:**

Staff is encouraged that senior governments are taking action to address this issue and firmly believe that to create a successful system and make meaningful difference, the regulation should be unified nationally, or at minimum provincially. Having a multitude of differing local government regulations will make it difficult for businesses operating in more than one jurisdiction to adjust and comply.

While local governments across the province, and across the country, continue to adopt single use plastics bans, given the ongoing provincial and federal dialogue on new regulation and some local uncertainty with regard to enforcement, staff are proposing that Council consider making a policy decision to not enforce the City's bylaw until the provincial and/or federal direction is resolved.

From a regulatory perspective, local governments are afforded complete discretion with regard to if, and when, they enforce their bylaws. Providing the decision is made in good faith there is no risk of liability. Staff recommend that if Council agrees with the opinion of staff outlined above, or if there are other financial, economic or social reasons that it considers reasonable, that a conscious policy decision be made to not enforce the bylaw.

With the uncertainty noted in this report staff recommend a policy decision be made in lieu of an amendment to the bylaw itself. The amendment process is somewhat more burdensome and includes increased staff time involved and the cost of providing statutory notice of the amendment. The policy decision will keep the bylaw intact and does not limit this or future Councils from proceeding with enforcement measures at a later date.

#### **FINANCIAL IMPLICATIONS:**

There are no direct financial implications with this decision.

## ADMINISTRATIVE IMPLICATIONS:

The preparation of this report involved approximately 2 hours of staff time. Should Council proceed with the recommended option additional time will be required to inform the public of the decision.

Resource requirements for enforcement of Bylaw 2970 are unknown. Currently the City employs one full time bylaw enforcement officer, as well as a part time Animal Control Officer (contract) and part time Traffic Control Officer (contract).

## ASSET MANAGEMENT IMPLICATIONS:

There are no direct asset management implications with this decision.

## STRATEGIC PRIORITIES REFERENCE:

- Communicate appropriately with our community in all decisions we make
- ▲ Support social, economic and environmental sustainability solutions
- ▲■ Advocate and cooperate with local and senior governments on regional issues affecting our community

● **AREA OF CONTROL:** The policy, works and programming matters that fall within Council's jurisdictional authority to act

▲ **AREA OF INFLUENCE:** Matters that fall within shared or agreed jurisdiction between Council and another government or party

■ **AREA OF CONCERN:** Matters of interest that are outside Council's jurisdictional authority to act

## OFFICIAL COMMUNITY PLAN REFERENCE:

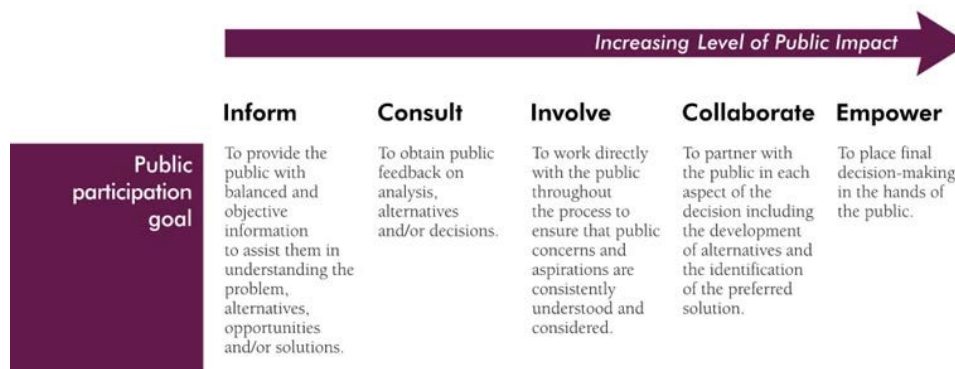
Not referenced.

## REGIONAL GROWTH STRATEGY REFERENCE:

Not referenced.

## CITIZEN/PUBLIC ENGAGEMENT:

Staff will **inform** the public based on the IAP2 Spectrum of Public Participation:



Staff previously included the frequently asked questions handout for Bylaw 2970 in the annual business licence renewal mail out. This mail out was sent to all active businesses in Courtenay.

Should Council decide not to enforce the bylaw effective March 31, 2020 staff will post notice advising the public of this decision on the City's website.

**OPTIONS:**

**OPTION 1: (Recommended)**

That based on the December 16, 2019 staff report "Single Use Plastics Regulation Bylaw 2970, 2019 – Enforcement Provisions", Council direct staff not to enforce Bylaw 2970, 2019 beginning March 31, 2020, pending more certainty of the regulatory approaches of the Provincial and Federal Governments; and,

That Council direct staff to post notice on the City of Courtenay website advising that the City of Courtenay will not enforce penalties for committing an offence on the effective date identified in Section 8 of Bylaw No. 2970, 2019; pending the outcome of the regulatory approaches proposed by the Provincial and Federal Governments.

**OPTION 2:**

That Council not make a decision on enforcement at this time.

**OPTION 3:**

That Council continue with enforcement of Bylaw 2970 in accordance with Bylaw Enforcement Policy 4000.00.01.

Prepared by:



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Ian Buck, RPP, MCIP  
Director of Development Services