



THE CORPORATION OF THE
DISTRICT OF WEST VANCOUVER

OFFICE OF THE MAYOR

June 25, 2019

File: 0055-20-UBCM

Union of British Columbia Municipalities
Attn: Jamee Justason, Information & Resolutions Coordinator
60 – 10551 Shellbridge Way
Richmond BC V6X 2W9

via email: jjustason@ubcm.ca

Dear Ms. Justason:

Re: District of West Vancouver Council Resolution regarding “Confirming Municipal Jurisdiction to Regulate Single-Use Items” for the 2019 UBCM Convention

The District of West Vancouver Council, at its June 24, 2019, regular meeting, passed the following motion regarding confirming municipal jurisdiction to regulate single-use items:

THAT WHEREAS single-use items increase waste, are often not recyclable, and have various negative impacts on communities across British Columbia;

AND WHEREAS citizens in West Vancouver and other communities have indicated that they would like to see regulations to restrict the use of single-use items in the District of West Vancouver;

AND WHEREAS over the past 10 years there have been several UBCM resolutions calling for the Province of British Columbia (“the Province”) to regulate single-use items, including UBCM Resolution B126 in 2018, which read:

Therefore be it resolved that the Province of British Columbia develop a provincial Single-Use Item Reduction Strategy as part of a provincial Zero Waste Strategy, which would include but not necessarily be limited to plastic and paper shopping bags, polystyrene foam cups and polystyrene foam containers, other hot and cold drink cups and take-out containers, straws and utensils, but would exclude all single use items needed for medical use or for people with disabilities.

AND WHEREAS the Province has not acted to restrict the use of single-use items at the provincial level, and responded to UBCM Resolution B126 as follows:

The Ministry commends the actions taken by local governments to develop single-use item strategies and other related initiatives to reduce plastic in the environment.

AND WHEREAS Metro Vancouver has taken the position that it does not have jurisdiction to regulate the use of single-use items;

AND WHEREAS several municipalities in British Columbia recently have acted or are in the process of acting to restrict the use of single-use items, including Victoria, Squamish, Salmon Arm, Qualicum Beach, and Tofino;

AND WHEREAS the ability of municipalities to regulate to protect the environment is specifically circumscribed by s. 9 of the *Community Charter*, S.B.C. 2003, c. 26, which states that a municipality may not adopt a bylaw for the protection of the natural environment unless the bylaw is established in accordance with a regulation made by the Province, is established in accordance with an agreement by the Province, or is approved by the Minister responsible (and there are no applicable regulations, agreements or approvals);

AND WHEREAS, as a result of the *Community Charter*, the ability of municipalities to regulate the reduction or banning of single-use items may be constrained and is uncertain even after the British Columbia Supreme Court decision in *Canadian Plastic Bag Association v. Victoria (City)*, 2018, BCSC 1007 (which is under appeal);

AND WHEREAS even if the City of Victoria prevails in the legal challenge under appeal, different bylaws regulating single-use items in different municipalities may still face costly and time-consuming legal challenges given the uncertain legal context;


AND WHEREAS municipalities should have clear and unambiguous jurisdiction to pass bylaws to protect the natural environment on matters wholly within the boundaries of the municipality and that do not adversely impact the interests of other municipalities or other levels of government and, more specifically, every municipality should have the jurisdiction to regulate the use of single-use items within the municipality at it sees fit;

THEREFORE BE IT RESOLVED THAT:

- (1) The Mayor, on behalf of Council, request that the Province enter into an agreement to allow the District of West Vancouver (and any other municipality that so chooses) to regulate reducing and banning single-use items within the municipality; or pass a regulation which has the same effect; or that the Minister responsible give his or her approval to bylaws which attempt to regulate or restrict single-use items within municipalities that pass such bylaws; and
- (2) The District of West Vancouver submit a Resolution to the Union of British Columbia Municipalities (UBCM) for consideration at the 2019 annual UBCM convention requesting that the Province specifically allow municipalities to regulate or restrict single-use items by the Province's agreement, by regulation, or by approval of the Minister.

The District of West Vancouver respectfully requests that the Union of British Columbia Municipalities consider the resolution, as found attached to this letter, at the 2019 UBCM Convention. Thank you for your consideration of this matter.

Sincerely,



Mary-Ann Booth
Mayor

Attachments:

- District of West Vancouver resolution regarding "Confirming Municipal Jurisdiction to Regulate Single-Use Items"
- District of West Vancouver Councillor's Motion dated May 29, 2019, regarding "Confirming Municipal Jurisdiction to Regulate Single-Use Items"

2019 West Vancouver Single-Use Item UBCM Motion

“Confirming Municipal Jurisdiction to Regulate Single-Use Items”

WHEREAS the Province has expressed support for the reduction of single-use items and municipal actions regulating those items, and has not yet produced a provincial strategy and targets to reduce or restrict the distribution of single-use items;

AND WHEREAS the ability of municipalities to regulate these items for the protection of the environment are limited by provisions circumscribed by s. 9 of the *Community Charter* S.B.C. 2003 c. 26 which states that a municipality may not adopt a bylaw for the protection of the natural environment unless the bylaw is established in accordance with a regulation made the province; is established in accordance with an agreement by the Province; or is approved by the Minister responsible (and there are no applicable regulation, agreements or approvals):

THEREFORE BE IT RESOLVED THAT the Province give the District of West Vancouver (and any other municipality that so chooses) the jurisdiction to create local regulations to reduce and ban single-use items within the municipality for the purpose of protecting the natural environment; and do so by entering into an agreement with the municipality, passing a regulation which has the same effect, or otherwise providing approval from the Minister of Environment and Climate Change Strategy for municipal bylaws which attempt to regulate or restrict single-use items within municipalities.

MEMORANDUM

Date: May 29, 2019 File: 0120-06
To: Council
From: Councillor Cameron and Councillor Gambioli
Re: **Notice of Motion regarding Confirming Municipal Jurisdiction to Regulate Single-Use Items**

Notice of the following motion regarding "Confirming Municipal Jurisdiction to Regulate Single-Use Items" will be given at the June 10, 2019, regular Council meeting. At the June 24, 2019, regular Council meeting, after the proposed motion is moved and seconded, discussion on the proposed motion may be held.

Take notice that at the June 24, 2019, regular Council meeting, Councillor Cameron, with Councillor Gambioli as seconder, will move:

WHEREAS single-use items increase waste, are often not recyclable, and have various negative impacts on communities across British Columbia;

AND WHEREAS citizens in West Vancouver and other communities have indicated that they would like to see regulations to restrict the use of single-use items in the District of West Vancouver;

AND WHEREAS over the past 10 years there have been several UBCM resolutions calling for the Province of British Columbia ("the Province") to regulate single-use items, including UBCM Resolution B126 in 2018, which read:

Therefore be it resolved that the Province of British Columbia develop a provincial Single-Use Item Reduction Strategy as part of a provincial Zero Waste Strategy, which would include but not necessarily be limited to plastic and paper shopping bags, polystyrene foam cups and polystyrene foam containers, other hot and cold drink cups and take-out containers, straws and utensils, but would exclude all single use items needed for medical use or for people with disabilities.

AND WHEREAS the Province has not acted to restrict the use of single-use items at the provincial level, and responded to UBCM Resolution B126 as follows:

The Ministry commends the actions taken by local governments to develop single-use item strategies and other related initiatives to reduce plastic in the environment.

AND WHEREAS Metro Vancouver has taken the position that it does not have jurisdiction to regulate the use of single-use items;

AND WHEREAS several municipalities in British Columbia recently have acted or are in the process of acting to restrict the use of single-use items, including Victoria, Squamish, Salmon Arm, Qualicum Beach, and Tofino;

AND WHEREAS the ability of municipalities to regulate to protect the environment is specifically circumscribed by s. 9 of the *Community Charter*, S.B.C. 2003, c. 26, which states that a municipality may not adopt a bylaw for the protection of the natural environment unless the bylaw is established in accordance with a regulation made by the Province, is established in accordance

with an agreement by the Province, or is approved by the Minister responsible (and there are no applicable regulations, agreements or approvals);

AND WHEREAS, as a result of the *Community Charter*, the ability of municipalities to regulate the reduction or banning of single-use items may be constrained and is uncertain even after the British Columbia Supreme Court decision in *Canadian Plastic Bag Association v. Victoria (City)*, 2018, BCSC 1007 (which is under appeal);

AND WHEREAS even if the City of Victoria prevails in the legal challenge under appeal, different bylaws regulating single-use items in different municipalities may still face costly and time-consuming legal challenges given the uncertain legal context;

AND WHEREAS municipalities should have clear and unambiguous jurisdiction to pass bylaws to protect the natural environment on matters wholly within the boundaries of the municipality and that do not adversely impact the interests of other municipalities or other levels of government and, more specifically, every municipality should have the jurisdiction to regulate the use of single-use items within the municipality at it sees fit;

THEREFORE BE IT RESOLVED THAT:

- (1) The Mayor, on behalf of Council, request that the Province enter into an agreement to allow the District of West Vancouver (and any other municipality that so chooses) to regulate reducing and banning single-use items within the municipality; or pass a regulation which has the same effect; or that the Minister responsible give his or her approval to bylaws which attempt to regulate or restrict single-use items within municipalities that pass such bylaws; and
- (2) The District of West Vancouver submit a Resolution to the Union of British Columbia Municipalities (UBCM) for consideration at the 2019 annual UBCM convention requesting that the Province specifically allow municipalities to regulate or restrict single-use items by the Province's agreement, by regulation, or by approval of the Minister.


MOVER: Councillor Cameron


SECONDER: Councillor Gambioli

Information Supporting the Notice of Motion

Community Charter, S.B.C. 2003, c. 26, s. 9
Canadian Plastic Bag Association v. Victoria (City), 2018, BCSC 1007
2018 UBCM Resolution B126