

TOWN OF BANFF BYLAW 468

SINGLE-USE ITEM REDUCTION BYLAW

A Bylaw to regulate the distribution of single-use items in Banff to reduce problematic unnecessary waste and foster the use of reusable alternatives.

WHEREAS, pursuant to section 7 of the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and protection of people and property;

AND WHEREAS, pursuant to section 7 of the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS, pursuant to section 7 of the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS, the Town of Banff has adopted the Environmental Master Plan along with a goal to send zero waste to landfill by 2050;

AND WHEREAS, the Town of Banff wishes to become a model environmental community, where everything we do is guided by a goal to protect this special place;

AND WHEREAS, the Town of Banff is a municipality situated within Banff National Park, for which Parks Canada as a governing body has a mission to maintain the ecological integrity of the park;

NOW THEREFORE the Council of the Town of Banff, in the Province of Alberta, duly assembled, ENACTS AS FOLLOWS:

1.0 CITATION

1.1 This bylaw may be cited as the Single-Use Item Reduction Bylaw.

2.0 DEFINITION

- 2.1 “Accessory Disposable Foodware Item” means any Disposable Foodware such as straws, stirrers, napkins, and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying Disposable Foodware used as part of food or beverage service or packaging.
- 2.2 “Business” means any person or entity, whether or not for profit and however organized or formed, including a co-operative or association of Persons which conducts:
- a. a commercial, merchandising or industrial activity or undertaking(s);
 - b. a profession, trade, occupation, calling or employment; or
 - c. an activity providing goods or services.
- 2.3 “Business Premises” includes any store, office, dwelling, warehouse, yard, building, enclosure, or other place occupied, or capable of being occupied, for the purpose of carrying on a Business and in which place the carrying on of a Business is a permitted or discretionary use, or is otherwise permitted, under the Town’s Land Use Bylaw, including communal indoor or outdoor areas capable of being used by customers for the purpose of eating or drinking, whether or not seating or tables are made available.
- 2.4 “Charitable Organization” means
- 2.4.1 Any incorporated or unincorporated organization that is formed for a charitable purpose, including a philanthropic, benevolent, educational, health, humane, religious, cultural, artistic, or recreational purpose, so long as the purpose is not part of a Business, or
 - 2.4.2 A person who makes solicitations for contributions to be used for a charitable purpose and who is not connected to any incorporated or unincorporated organization that is formed for the charitable purpose for which the solicitation is made.
- 2.5 “Customer” means any person who purchases or receives food, drinks, or items from a business, event organizer, or other vendor and includes a person who orders these food, drinks, or items through an online ordering platform.
- 2.6 “Disposable Foodware” means all containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, accessory items, lids, sleeves, liners, and any other items used to hold, serve, eat or drink food or beverages, which are designed for single use and in which food or beverages is placed or prepared on a business's premises.

- 2.7 “Event Organizer” means any person who holds a Special Events Permit through the Town of Banff.
- 2.8 “Food Handling Permit” means a food handling permit as defined in the Food Regulation AR31/2006 of the Alberta Public Health Act, RSA 2000, c. P-37, as amended.
- 2.9 “Non-Profit Organization” means a club, society, or association that’s organized and operated solely for social welfare, civic improvement, pleasure or recreation, or any other purpose except profit.
- 2.10 “Ordering Platform” means any platform that allows customers to order food or items for pickup or delivery from a business, and includes orders made by phone, on the business website, or on a third-party site, any of which may also include delivery by a third-party.
- 2.11 “Paper Shopping Bag” means a shopping bag made out of paper.
- 2.12 “Plastic Shopping Bag” means a shopping bag made out of any type of film plastic, which may include compostable, biodegradable, oxo-degradable, recycled, bio-plastic, or conventional plastics, but does not include reusable shopping bags;
- 2.13 “Person” means any individual, Occupant, Owner, firm, partnership, association, corporation, company or organization of any kind.
- 2.14 “Prepared Food” means foods or beverages which are prepared on the vendor’s premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation to be consumed. Prepared Food does not include raw uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw or uncooked meat products.
- 2.15 “Reusable Shopping Bag” means a shopping bag made of any type of material, excluding film plastic, and is designed and manufactured to be durable enough for multiple uses, and is capable of being washed or disinfected;
- 2.16 “Reusable Foodware” means all foodware, including plates, bowls, trays, cups, glasses, bottles, mugs and accessory items, that are manufactured of durable materials and that are specifically designed and manufactured to be washed and sanitised and to be used repeatedly over an extended period of time, and are safe for washing and sanitizing according to applicable regulations.
- 2.17 “Shopping Bag” means any bag provided by a business to transport items purchased or received from the business, but does not include bags used to:
- a. Package bulk items such as hardware or fasteners;

- b. Serve as primary packaging for food items, including, but not limited to, baked goods, produce, or bulk food items such as nuts, dry goods, or candy;
 - c. Package goods received from a pharmacist; or
 - d. Protect items from becoming dirty or unusable due to exposure such as newspapers intended to be left at a customer's residence, or clothes after professional laundering or dry cleaning;
- 2.18 “Takeout Food” means Prepared Food which is purchased to be consumed off a Prepared Food Vendor’s premises. Takeout Food includes Prepared Food carried out by the customer or delivered by an individual pursuant to an order bring placed on an Ordering Platform.
- 2.19 “Town” means the Corporation of the Town of Banff and where, the context requires, the land included within the boundaries of the Town of Banff.
- 2.20 “Town Manager” means a Person appointed as the Town Manager by Town Council, or the Person designated by the Town Manager to carry out a particular duty.

3.0 INTERPRETATION

- 3.1 In this bylaw, the headings in the body or this bylaw form no part of the bylaw and are inserted for convenience and reference only.

4.0 CONSUMPTION ON PREMISES

- 4.1 Any Business falling within the business license category of Restaurant/Bar, Lodging, or Attractions and Entertainment under the Town of Banff Business License Bylaw 22-10, that provides food or drinks to Customers must provide a minimum of 10 seats for consumption on the Business Premises and must provide the food or drinks provided to Customers for consumption on the Business Premises in Reusable Foodware.
- 4.1.1 The business must ask and may rely on the Customer’s stated intention regarding whether the Customer intends to consume their food or drinks on or off the Business Premises at the time of providing the food or drinks to the customer, regardless of whether the Customer does consume the food or drinks on or off the Business Premises.
 - 4.1.2 A License Inspector may, at any time, request that a business provide proof that they have Reusable Foodware on site in order to comply with Section 4.1.

- 4.1.3 As per the Business License renewal and approval process, all Businesses must establish, to the satisfaction of the Town, that they have suitable dishwashing facilities and adequate seating located on the premises, to be able to comply with Section 4.1.
- 4.2 Notwithstanding subsection 4.1,
 - 4.2.1 a Business that is a Charitable Organization, Non-Profit Organization or healthcare facility is permitted to provide food or beverages to Customers in Disposable Foodware for consumption on the Business Premises;
 - 4.2.2 [Deleted]
 - 4.2.3 a Business
 - 4.2.3.1 that possesses a food handling permit containing terms and conditions requiring “single-use, disposable customer utensils only” as issued under the Food Regulation, or
 - 4.2.3.2 that does not have on-site or off-site dishwashing capacity and can demonstrate inability to comply due to insurmountable space constraints, undue financial hardship and/or other extraordinary, insurmountable circumstances,

may apply for an exemption from the Town Manager, for which the exemption may be of limited duration in order to permit the Business to implement necessary changes.
 - 4.2.4 a Business falling within the business license category of Attractions and Entertainment under the Town of Banff Business License Bylaw 22-10 is permitted to provide food and drinks in non-Reusable Foodware at the request of a Customer provided Reusable Foodware is also available to Customers.
 - 4.2.5 Straws may be provided if the Customer requests a straw.
- 4.3 Section 4.0 comes into force on January 1, 2024.

5.0 CUSTOMER REUSABLE FOODWARE

5.1 Customer Reusable Foodware Policy

- 5.1.1 Any Business falling within the business license category of Restaurant/Bar, Retail, Transportation/Attractions and Entertainment under the Town of Banff Business License Bylaw 22-10, must have in place a written Reusable Foodware policy that permits Customers to supply their own Reusable Foodware in which the Business can serve food or drinks to the Customer.
- 5.1.2 An Event Organizer or Business falling within the business category of Farmers Market or Public Market Organizer under the Town of Banff Business License Bylaw 22-10, must have in place a written Reusable Foodware policy which permits Customers to supply their own Reusable Foodware in which the vendor can serve food or drinks to the Customer.
- 5.1.3 A Business or Event organizer identified in section 5.1.1. or 5.1.2. must permit a Customer to use their own Reusable Foodware for any food or drinks served by the Business or Event Organizer in accordance with their policy.

6.0 ACCESSORY DISPOSABLE FOODWARE ITEMS

- 6.1 A Business or Event Organizer shall not provide or permit to be provided any Accessory Disposable Foodware Item to a Customer unless the Customer requests the Accessory Disposable Foodware Item.
- 6.2 A Customer request as required by section 6.1 is deemed to be valid if:
 - a. the Customer initiates the request; or
 - b. the Customer answers a prompt on an Ordering Platform.
 - c. the customer takes the item themselves from a self-serve station, which also contains options for Reusable Foodware.
- 6.3 A Charitable Organization and Non-Profit Organization is exempt from the requirement for a Customer request for an Accessory Disposable Foodware Item under section 6.1.

7.0 SHOPPING BAGS

7.1 Plastic Bag Ban

- 7.1.1 A Business or Event Organizer must not provide or permit to be provided a new plastic shopping bag to a Customer.
- 7.1.2 Notwithstanding subsections 4.1.1., a Business or Event Organizer may provide a plastic shopping bag to a Customer if:
 - a. The plastic shopping bag has previously been used and is being reused.
- 7.1.3 In a prosecution for a contravention of this Part:
 - a. It is not necessary that a witness testify to the precise description, kind, brand or name of the plastic shopping bag;
 - b. The court may, in absence of evidence to the contrary, infer that the shopping bag was a plastic shopping bag from the fact that a witness describes it by characteristics commonly used to describe film plastic;
 - c. Evidence that a shopping bag looked, felt or behaved like film plastic is, in the absence of evidence to the contrary, sufficient to establish that the shopping bag was a plastic shopping bag.

7.2 Paper and Reusable Shopping Bags

- 7.2.1 Except as otherwise provided under subsections 7.2.2 or 7.5, a Business or Event Organizer must not provide or permit to be provided a new shopping bag to a Customer
- 7.2.2. A Business or Event Organizer may provide or permit to be provided a new shopping bag to a Customer if:
 - a. the shopping bag is a Paper Shopping Bag made of minimum 40% recycled content or a Reusable Shopping Bag;
 - b. the Customer requests the Paper Shopping Bag or Reusable Shopping Bag; and
 - c. the Business or Event Organizer charges a minimum fee of:
 - i. \$0.25 per Paper Shopping Bag; or
 - ii. \$2.00 per Reusable Shopping Bag.

7.2.3 Any fees charged under subsection 7.2.2 (c) must be indicated as a separate line item on any receipt given to the Customer.

7.2.4. Every Business or Event Organizer who does provide Paper Shopping Bags or Reusable Shopping Bags under subsection 7.2 must display information about the minimum fees charged on media visible to the Customer at the point of purchase.

7.2.5. For clarity, a shopping bag that has previously been used and is now being reused is not considered a new shopping bag under section 7.2.

7.3 Customer's Own Reusable Shopping Bags

7.3.1 No Business or Event Organizer shall deny the reasonable use by a Customer of the Customer's own reusable shopping bag.

7.4. Markings on Paper Shopping Bags

8.4.1 In the absence of markings on a Paper Shopping Bag designating that the bag is made of a minimum of 40 percent recycled content, the Business may show that the bag meets the recycled content threshold through other evidence.

7.5 Exemptions

7.5.1 A Charitable Organization and Non-Profit Organization is exempt from the requirement under subsection

- a. When they are the Customer, to pay a fee to a Business; and
- b. When they are the Business, to charge a fee to the Customer.

7.6 Section 7.0 comes into force on January 1, 2024.

8.0 VIOLATIONS AND ENFORCEMENT

- 8.1 Any Person who contravenes a provision of this bylaw or the terms of any permit issued pursuant to this bylaw is guilty of an offence and is liable for the penalty set out in Schedule “A”, or if no penalty is specified in Schedule “A” for the offence, for the penalty in accordance with Section 61 of this bylaw.
- 8.2 When a corporation commits an offence under this bylaw, every principal, director, manager, employer, or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- 8.3 If a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
- 8.4 Violation tickets:
- a) Where a Licence Inspector reasonably believes that a person has contravened any provision of this bylaw, the Licence Inspector or Bylaw Services Officer may serve upon the person a Violation Ticket, allowing payment of the specified penalty set out in Schedule “A” for the offence, and the recording of such payment by the Court shall constitute acceptance of a guilty plea and the imposition of a fine in the amount of the specified penalty.
 - b) This section shall not prevent any Licence Inspector or Bylaw Services Officer from issuing a ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act or from laying an information in lieu of issuing a Violation Ticket.
- 8.5 The imposition of a fine either by issuance of a Violation Ticket or by summary conviction in court shall not relieve any person so fined from any debt owing to the Town for an unpaid Business Licence.

9.0 TRANSITION

- 9.1 If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.
- 9.2 Schedule “A” forms part of this bylaw.
- 9.3 This bylaw comes into force when it receives third reading and is signed by the Mayor and the Town Manager or designates.
- 9.3.1 Notwithstanding Section 9.3 hereof, Bylaw 468 will not be enforced until July 1, 2023.
- 9.4 The Town Manager is authorized to consolidate Bylaw 468.

READ A FIRST TIME this 19th day of December, 2022.

READ A SECOND TIME, as amended, this 13th day of February, 2023.

READ A THIRD TIME, as amended, this 13th day of February, 2023.

SIGNED AND PASSED, as amended, this 13th day of February, 2023.

On Original

Corrie DiManno
Mayor

On Original

Kelly Gibson
Town Manager

SCHEDULE A – PENALTIES

First offense (all sections)	\$200
Second offense (all sections)	\$350
Third and all subsequent offenses	\$500