Agenda – Council – May 29, 2013

Report – Standing Policy Committee on Protection and Community Services – May 6, 2013

Item No. 1 Accumulation and Illegal Dumping of Garbage

STANDING COMMITTEE RECOMMENDATION:

On May 15, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, and submitted the following to Council:

1. That the proposed amendments to the Neighbourhood Liveability By-law No. 1/2008 as contained in Appendix A, which will create a three-tiered (volume oriented) category system for the accumulation and illegal dumping of garbage, with subsequent minimum fines for each category, be approved.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Protection and Community Services – May 6, 2013

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 15, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 6, 2013, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **Accumulation and Illegal Dumping of Garbage**

Critical Path: Standing Policy Committee on Protection and Community Services, Executive Policy Committee, Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. de Graaf	C. Wightman	M. Ruta	D. Joshi

RECOMMENDATIONS

1. That Council approve the proposed amendments to the *Neighbourhood Liveability By-law No. 1/2008* (Draft amending By-law attached as Appendix A), which will create a three-tiered (volume oriented) category system for the accumulation and illegal dumping of garbage, with subsequent minimum fines for each category.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

EXECUTIVE SUMMARY

This report proposes a new three-tiered accumulation of garbage/illegal dumping category and fine system to the Neighbourhood Livability By-law (NLB) so littering and spitting, dumping, and large-scale dumping are addressed and fined individually and to serve as a deterrent to these illegal activities on public and private property.

Under the proposed amendment to the NLB:

- littering of small items such as gum, wrappers and cigarette butts will be subject to a $100 minimum fine with an early payment option;
- illegal dumping of any garbage other than litter will be subject to a minimum fine of $600 for individuals and $1,200 for corporations with early payment options;
- Large-scale dumping and accumulated garbage such as furniture, appliances, renovation materials, car parts or garbage (other than litter) dumped from a vehicle will be subject to a $2,000 minimum fine for individuals and a $4,000 minimum fine for corporations with no early payment option.

Under the current NLB, individuals caught littering a cigarette butt are subject to the same fine structure as those illegally dumping a truck full of garbage resulting in a minimum fine of $300 for individuals ($150 early payment option). The current fine structure for spitting is $1000 maximum for individuals or 6 months imprisonment or both.

Fine revenues will be used to support enforcement and prosecutions.

These new fines will take effect immediately upon Council approval of the by-law amendments.

REASON FOR THE REPORT

On October 24, 2012, Council automatically referred the following motion to the Standing Policy Committee on Infrastructure Renewal and Public Works:

> *That the City administration provides recommended amendments to the Solid Waste By-law and any other by-law to establish a separate, higher fine of one thousand dollars ($1,000.00) on individuals and two thousand dollars ($2,000.00) on businesses that dump or abandon bulk waste on public and private property.*

On January 11, 2013, the Standing Policy Committee on Infrastructure Renewal and Public Works adopted the following recommendation:

1. *That this report be received as information and;*

2. *That the October 24, 2012 Council motion be referred to the February 19th, 2013 meeting of the Standing Policy Committee on Protection and Community Services so that the Public Service may conduct further consultations regarding the Neighbourhood Liveability By-law, rather than the Solid Waste By-law.*

On February 19, 2013, the Standing Policy Committee on Protection and Community Services adopted the following:

> *The Standing Policy Committee on Protection and Community Services received as information the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works, inasmuch as the Winnipeg Public Service is currently preparing a report on Abandoned Bulky Waste.*

IMPLICATIONS OF THE RECOMMENDATIONS

This report recommends establishing a three-tiered (volume oriented) category system for the accumulation and illegal dumping of garbage with subsequent fines for each category. This includes a proposed minimum fine of $2,000 for individuals and $4,000 for corporations who engage in large scale dumping and /or large scale accumulation of garbage, as per the Council motion of October 24, 2013.

Section 53 of the Neighbourhood Liveability By-law

Section 53 of the *Neighbourhood Liveability By-law* addresses the littering and dumping of garbage. The intent is to target the perpetrator committing the deliberate illegal act (i.e., a resident illegally dumping garbage on public property or another resident's property). However, under this Section, a person caught littering a cigarette butt is subject to the same fine structure as a person illegally dumping a truck full of garbage. The current fine schedule includes a minimum fine of $300 for individuals ($150 for early payment) and $600 for corporations ($300 for early payment).

Section 6 of the Neighbourhood Liveability By-law

Section 6 of the Neighbourhood Liveability By-law addresses the accumulation of garbage on a property. Under this Section, both the property owner and/or the occupant are obligated to comply with the by-law. The current fine schedule for any amount of accumulated garbage under the *City of Winnipeg Charter* includes the following:

- Up to $1,000 or 6 month imprisonment or both for an individual and
- Up to $5,000 for a corporation

The Public Service proposes amending the By-law to include a three-tiered system of minimum penalties according to the following categories:

Category 1: Littering and Spitting

- Littering applies to single small items such as gum, small wrappers, cigarette butts, and small disposable containers;
- $100 minimum fine (early payment option of $50)

Category 2: Dumping and Accumulation of Garbage

- Applies to any dumping of garbage other than litter
- $600 minimum fine for individuals (early payment option of $300)
- $1,200 minimum fine for corporations (early payment option of $600)
- In addition to the aforementioned, a monetary penalty would also be imposed on the offender in the amount of the cost of cleaning up the garbage.

Category 3: Large Scale Dumping and Accumulation of Garbage

- Applies to any dumping of the following types of garbage:
  - (i) furniture or appliances, including mattresses;
  - (ii) hazardous waste;
  - (iii) construction, demolition or renovation waste;
  - (iv) six or more bags of garbage;
- Also applies to any garbage (other than litter) dumped from a vehicle;
- Applies to accumulation of the following type of garbage
  - (i) refuse including appliances, indoor furniture, dilapidated outdoor furniture, mattresses, large auto parts, and crates;
  - (ii) hazardous waste;
  - (iii) construction, demolition or renovation waste;
  - (iv) wrecked, dismantled, partially dismantled, inoperative, discarded, or abandoned trailers, machinery or vehicles or parts thereof,
  - (v) six or more bags of garbage;
- $2,000 minimum fine for individuals
- $4,000 minimum fine for corporations
- No early payment option
- In addition to the aforementioned, a monetary penalty would also be imposed on the offender in the amount of the cost of cleaning up the garbage.

Please see Appendix B for a comparative chart identifying the current and proposed fine structure.

It is important to note that, irrespective of the minimum fines enacted in our Municipal by-laws, *The Summary Conviction Act* specifically authorizes the Court to impose a fine less than the minimum when a justice is satisfied that "an offence with which an accused is charged occurred through accident or under circumstances not wholly attributable to the fault of the accused". Accordingly, the amount that offenders are actually fined is still at the discretion of the Court.

The higher fines for large scale dumping and accumulations of garbage are anticipated to deter these illegal acts; as a result, the financial impact on the City is anticipated to be minimal. Fine revenues will be used to support enforcement and prosecutions.

These new fines will take effect immediately upon Council approval of the by-law amendments.

HISTORY

On October 24, 2012, Council automatically referred the following motion to the Policy Committee on Infrastructure Renewal and Public Works:

> *That the City administration provides recommended amendments to the Solid Waste By-law and any other by-law to establish a separate, higher fine of one thousand dollars ($1,000.00) on individuals and two thousand dollars ($2,000.00) on businesses that dump or abandon bulk waste on public and private property.*

On November 14, 2012, Council adopted the October 30, 2012 recommendations of the Standing Policy Committee on Infrastructure Renewal and Public Works as follows:

1. *That the Winnipeg Public Service report back to Committee in 60 days on the October 24, 2012 Council motion regarding an Amendment to the Solid Waste By-law No. 110/2012 to increase fines for abandoned bulky waste.*

2. *That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.*

On January 11, 2013, the Standing Policy Committee on Infrastructure Renewal and Public Works adopted the following recommendation:

1. *That this report be received as information and;*

2. *That the October 24, 2012 Council motion be referred to the February 19th, 2013 meeting of the Standing Policy Committee on Protection and Community Services so that the Public Service may conduct further consultations regarding the Neighbourhood Liveability By-law, rather than the Solid Waste By-law.*

On February 19, 2013, the Standing Policy Committee on Protection and Community Services adopted the following:

> *The Standing Policy Committee on Protection and Community Services received as information the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works, inasmuch as the Winnipeg Public Service is currently preparing a report on Abandoned Bulky Waste.*

FINANCIAL IMPACT

Financial Impact Statement

Date: April 25, 2013

Project Name:

Accumulation and Illegal Dumping of Garbage

First Year of Program **2013**

	2013	2014	2015	2016	2017
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery		-		-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts				-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The higher fines for large scale dumping and accumulations of garbage are anticipated to deter these illegal acts; as a result, the financial impact is anticipated to be minimal.

original signed by

Cindy Fernandes, B.Comm (Hon), CMA
Controller
Finance and Administrative Services
Community Services Department

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department
Winnipeg Police Service
Water and Waste Department

SUBMITTED BY

Department: Community Services
Division: Community By-law Enforcement Services
Prepared by: Peter de Graaf, Manager
Date: May 1, 2013
File No.:

DRAFT **Appendix A**

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to amend the Neighbourhood Liveability By-law

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Neighbourhood Liveability By-law amended

1. The Neighbourhood Liveability By-law No. 1/2008 is amended by this By-law.

Section 6 amended

2. The following subsection is added immediately after subsection 6(1):

6(1.1) The following items of garbage must not be allowed to accumulate on private property:

(a) one or more large items of refuse, including appliances, indoor furniture, dilapidated outdoor furniture, mattresses, large auto parts and crates;

(b) hazardous waste, as defined in the Solid Waste By-law;

(c) construction, demolition or renovation waste;

(d) wrecked, dismantled, partially dismantled, inoperative, discarded, or abandoned trailers, machinery or vehicles or parts thereof;

(e) six or more bags of garbage.

Section 53 replaced

3. Section 53 is replaced with the following:

Littering, dumping and large scale dumping of garbage prohibited

53(1) In this section,

*"**dumping**", in relation to garbage, means depositing, discarding or leaving garbage, other than litter, on a street, in a public place or on private property that is not the property of the person, except in a container designed for garbage collection;*

*"**large scale dumping**", in relation to garbage, means*

(a) from a vehicle, depositing, discarding or leaving garbage, other than litter, on a street, in a public place or on private property that is not the property of the person, except in a container designed for garbage collection; or

(b) depositing, discarding or leaving any of the following items on a street, in a public place or on private property that is not the property of the person, except in a container designed for garbage collection:

(v) one or more pieces of furniture or appliances, including mattresses;
(vi) hazardous waste, as defined in the Solid Waste By-law;
(vii) construction, demolition or renovation waste;
(viii) six or more bags of garbage;

*"**litter**", when used as a noun, means a single small item of garbage, such as a cigarette butt, a food or candy wrapper, or a disposable container;*

*"**littering**" means depositing, discarding or leaving litter on a street, in a public place or on private property that is not the property of the person, except in a litter receptacle or in a container designed for garbage collection.*

53(2) A person must not litter.

53(3) A person must not dump garbage.

53(4) A person must not engage in the large scale dumping of garbage.

53(5) The owner of a vehicle, and the person driving a vehicle, must not permit the vehicle to be used in the large scale dumping of garbage.

Part 10, Division 4 replaced

4 Division 4 of Part 10 is replaced in its entirety with the following:

DIVISION 4 – PENALTIES

Penalties for accumulation of garbage

109(1) Subject to subsection (3), a property owner or occupant of a property who contravenes subsection 6(1) (allowing garbage to accumulate on property) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than the following, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*:*

(a) in the case of an individual, $600.00; and

(b) in the case of a corporation, $1200.00.

109(2) A property owner or occupant of a property who contravenes subsection 6(1.1) (allowing large scale accumulation of garbage on property) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than the following, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*:*

(a) in the case of an individual, $2000.00; and

(b) in the case of a corporation, $4000.00.

109(3) Notwithstanding subsection (1), a person who contravenes subsection 6(1) may pay a discounted fine in the amount of half the minimum fine set out in subsection (1), plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*, within 15 days following the date the offence notice alleging the contravention was issued and thereafter will not be prosecuted for the contravention.*

109(4) A monetary penalty pursuant to sub-clause 175(d)(i) of The City of Winnipeg Charter *is hereby imposed for a contravention of section 6 of this By-law. The monetary penalty is in the amount of the costs of any collection, clean-up and disposal of litter or garbage that is associated with the conduct that is in contravention of the provision.*

Penalties for violation of Part 5 (Noise control)

109.1(1) An individual who contravenes Part 5 of this By-law (Noise Control) is guilty of an offence and is liable, upon summary conviction, to the following penalties:

(a) for a first offence, to a minimum fine of $50.00;

(b) for a second offence, to a minimum fine of $100.00; and

(c) for a third and each subsequent offence, to a minimum fine of $150.00.

109.1(2) A corporation that contravenes Part 5 of this By-law (Noise Control) is guilty of an offence and is liable, upon summary conviction, to the following penalties:

(a) for a first offence, to a minimum fine of $100.00;

(b) for a second offence, to a minimum fine of $200.00; and

(c) for a third and each subsequent offence, to a minimum fine of $300.00.

Penalties for violations of Part 3 (Littering and Garbage)

109.2(1) Subject to subsection (5), a person who contravenes subsection 53(2) (littering) or 54 (spitting on a street) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than $100.00, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*.*

109.2(2) Subject to subsection (5), a person who contravenes subsection 53(4) (dumping garbage) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than the following, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*:*

(c) in the case of an individual, $600.00; and

(d) in the case of a corporation, $1200.00.

109.2(3) A person who contravenes subsection 53(4) (large scale dumping of garbage) or 53(5) (own or operate a vehicle used in large scale dumping of garbage) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than the following, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*:*

(c) in the case of an individual, $2000.00; and

(d) in the case of a corporation, $4000.00.

109.2(4) Subject to subsection (5), a person who contravenes section 55 (garbage escaping vehicle), section 56 (duty of owners/occupants) or section 57 (duty of business owners) is guilty of an offence and is liable, upon summary conviction for the contravention of that provision, to a fine of not less than the following, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*:*

(a) in the case of an individual, $600.00; and

(b) in the case of a corporation, $1200.00.

109.2(5) Notwithstanding subsections (1), (2) and (4), a person who contravenes the provisions referred to in those subsections may pay a discounted fine in the amount of half the minimum fine set out in those subsections as being applicable to the person, plus court costs, surcharges and fees imposed pursuant to The Summary Convictions Act*, within 15 days following the date the offence notice alleging the contravention was issued and thereafter will not be prosecuted for the contravention.*

109.2(6) A monetary penalty pursuant to sub-clause 175(d)(i) of The City of Winnipeg Charter *is hereby imposed for a contravention of Part 3 of this By-law. The monetary penalty is in the amount of the costs of any collection, clean-up and disposal of litter or garbage that is associated with the conduct that is in contravention of the provision.*

DONE AND PASSED, this day of , 2013.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Approved as to form:

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For Director of Legal Services/City Solicitor

Appendix B - Current and Proposed Fines for Accumulation of Garbage, Littering, Illegal Dumping, and Spitting

Neighbourhood Liveability By-law No. 1/2008 (NLB)	**Current Fines**	**Proposed Fines**	
Section 6(1) - Accumulation of Garbage on a Property	Individual: Maximum $1000 or 6 months imprisonment or both	Accumulation of Garbage other than Large Scale	Individual: $600 minimum ($300 early payment)
	Corporation: Maximum $5000		Corporation: $1,200 minimum ($600 early payment)
		Large Scale Accumulation of Garbage	Individual: $2000 minimum
			Corporation: $4000 minimum
Section 53(1) - Littering and Dumping of Garbage	Individual: $300 ($150 early payment)	Littering	$100 ($50 early payment)
	Corporation: $600 ($300 early payment)		
		Dumping of Garbage	Individual: $600 ($300 early payment)
			Corporation: $1,200 ($600 early payment)
		Large Scale Dumping of Garbage	Individual: $2,000 minimum
			Corporation: $4,000 minimum
Section 54 - Spitting	Individual: Maximum $1000 or 6 months imprisonment or both	Spitting	Individual: $100 ($50 early payment)