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**Subject:** Solid Waste Management By-law Update

**Report to:** Public Works Committee

**Report date:** Tuesday, August 4, 2020

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## Recommendations

1. That this Committee recommend to Regional Council that the Solid Waste Management By-law No. 2017-56, as amended **BE AMENDED** to reflect the By-law updates outlined in this report and attached as Appendix 1;
2. That this Committee recommend to Regional Council that the proposed Short Form Offences and Set Fines Schedule, attached as Appendix 2, **BE FORWARDED FOR APPROVAL** to the Chief Justice of the Ontario Court (Provincial Division) as required under the *Provincial Offences Act*. Upon approval including any changes by the Chief Justice, the Short Form Offences and Set Fines Schedule become enforceable under the updated By-law; and
3. That a copy of the amended By-law and the subject report **BE FORWARDED** to the local area municipalities, for information.

## Key Facts

- The purpose of this report is to seek Committee's approval for the amendment of the Solid Waste Management By-law No.2017-56 (By-law), which was last updated in 2017.
- Several updates to the By-law are required due to service level changes which have previously been approved by Council, to be effective October 19, 2020.
- Additional updates to the By-law to include provisions on exemptions, container limits and set-out specifications, Acceptable Materials, inappropriate behaviour towards staff, Illegal Dumping and issuing Orders for clean-up of Non-Compliant Material.
- An update to the Short Form Offences and Set Fines Schedule is proposed to facilitate the enforcement of property owners' responsibility to remove Material deemed uncollectable (i.e. contaminated or does not otherwise meet By-law restrictions) by the collection contractors.
- Minor clarifications and clerical corrections to the existing By-law wording have been made to improve public understanding and administration.

## **Financial Considerations**

There are no anticipated financial implications with the proposed update of the By-law.

## **Analysis**

The purpose of the By-law is to regulate and control the use of Niagara Region's waste management system. Since coming into effect in October 1999, the By-law has regularly been revised to reflect changes to waste collection services and requirements. Amendments were adopted in 2001, 2002, 2003, 2008, 2010, 2011, 2012, 2015 and 2017.

The current update to the By-law is required to incorporate the waste collection service level changes approved by Council on October 17, 2019 (PW 61-2019), which take effect October 19, 2020. The update also includes improvements in wording to encourage increased waste diversion and provide clarification on existing conditions for enhanced enforcement and public understanding.

A coordinated update to the Requirements for Waste Collection policy and procedures is needed to ensure consistency with the By-law change. An update to the Requirements of Waste Collection policy and procedures will be provided to Public Works Committee in September, 2020.

Outlined below are the proposed By-law revisions which are contained in Appendix 1:

## **Service Level Changes**

The By-law has been updated to reflect the waste, recyclables and organics service levels changes taking place on October 19, 2020.

### Every-other-week Garbage collection

All properties outside of the Designated Business Areas (DBAs) and those residential properties inside specified DBAs, which receive Niagara Region's curbside Garbage collection, will receive every-other-week Garbage collection as a base service. Weekly collection of Blue/Grey Box/Cart and Green Bin/Cart Material will continue. Schedule A of the By-law has been revised to show the collection frequencies for each service.

### Changes to Garbage Container limits

Garbage Container limits will also be changing on October 19, 2020. Schedule A has been updated with the following container limit changes:

- Garbage Container limits will double for all properties receiving every-other-week Garbage collection. (i.e. if current limit is one (1) Garbage Container per unit, per week, it will double to two (2) Garbage Containers every-other-week).
- Mixed-Use (MU) and Industrial, Commercial and Institutional (IC&I) properties outside DBAs will be permitted to set out eight (8) Garbage Containers, per property, every-other-week.
- MU and IC&I properties inside DBAs will change from a container limit of seven (7) containers per property, per week to four (4) containers, per property, per week as a base service.

### Limit on Bulky Goods Collection – Low Density Residential Properties

Starting October 19, 2020, there will be a limit of four (4) Bulky Goods, per unit, per Garbage collection. Section 6.2 of the By-law has been updated to include this limit. There is no limit on the number of times a resident can schedule a pick up.

### Discontinuation of Curbside Collection of White Goods

As curbside collection of White Goods will be discontinued effective October 19, these items have been removed from Section 3, Classes of Collectable Items and Section 12 under Collection Services in the By-law. Section 1.39, Non-Collectable Material, of the By-law has been updated to include White Goods.

### **Diaper Exemptions**

As per the Public Works Committee recommendation on May 12, 2020, a garbage exemption program was approved to have diapers collected weekly with the start of the new collection contracts, for households with a child under the age of four in diapers. In addition, a weekly collection service was approved for residents who generate additional garbage due to a medical condition. Section 14.1 of the By-law has been changed to provide the appropriate criteria and guidelines for the updated exemptions.

## **Blue/Grey Cart and Green Cart Limits for IC&I Outside DBAs**

Similar to other comparator municipalities, Niagara Region has placed a limit on the number of recycling and organics carts that can be collected weekly at IC&I properties outside the DBAs. This ensures that resources and capacity are sufficient to efficiently and effectively collect and process residential recycling and organics. The container limits in Schedule A of the By-law have been updated with a maximum limit of eight (8) Blue/Grey Carts and eight (8) Green Carts for IC&I properties outside of DBAs. Section 14 of the By-law has been updated to place a limit on the number of recycling and organics carts that can be collected weekly at IC&I properties outside the DBAs.

## **Container and Set-out Specifications**

The size restrictions for Blue and Grey Boxes have been further defined to provide a maximum depth, in addition to the maximum height and width, and clarify how dimension should be measured. The By-law has also been updated to specify that containers must have handles or indentations to facilitate lifting.

In section 11.1, the acceptable methods for bundling flattened cardboard have been updated.

Section 14.1 has been updated to provide instructions on how to properly affix Garbage Tags to Garbage bags and on Garbage Material.

Clarifications have been made to improve public understanding and administration of the use of lids on collection containers. All lids must be readily separable from all collection containers with the exception of Blue, Grey, and Green Carts from As Designated properties, and Green Bins, available from the Region, or approved alternatives.

## **Acceptable Household Hazardous Waste Containers**

Although guidelines for acceptable containers for Household Hazardous Waste are provided on the Region website, they have not previously been included in the By-law. Section 27 has been updated to outline the parameters for acceptable containers for disposing of Household Hazardous Waste at Region landfills and drop-off sites.

## **Farm Exemption**

Section 14.9 of the By-law has been updated to reflect the Region's existing farm exemption parameters.

On a request basis, if a residential farm requests commercial services, the property will be categorized as an IC&I premise and will receive services as such and specifically will no longer be eligible for Bulky Good, Leaf and Yard Material and Brush collection, and cannot purchase Garbage Tags for additional Garbage.

If a commercial farm requests single family residential services, the property will be categorized as a low-density residential premise and receive services as such and specifically will not be eligible for the eight (8) bag/can per every-other-week Garbage limit.

## **Private Garbage Collection**

Previously, IC&I and MU properties that used private garbage collection were not permitted to receive Regional Garbage collection. Section 14.5 of the By-law has been updated to allow properties using private garbage collection to receive Regional Garbage collection, provided they are also using Regional Blue/Grey Box/Cart and Green Bin/Cart collection and are able to stay within the applicable Garbage Container limits. The rationale for the elimination of the restriction was to improve service delivery to those IC&I and MU properties that would otherwise have been ineligible to receive curbside Regional Garbage collection.

## **Multi-Purpose Properties**

Section 14.8 was modified to align with Niagara Region's "Requirements for Waste Collection" policy.

## **Inappropriate Behaviour**

To enforce the safety of Niagara Region or contractors' staff, if the Owner of a Premises or a tenant indulges in any inappropriate behaviour, violent, threatening or illegal conduct, or uses profane or abusive language, as determined by Niagara Region, towards Region staff or contractors' staff, the Region may, at the discretion of the Commissioner of Public Works or his/her designate, and upon written notice to the Owner, cease collection from the Premises until such time as the inappropriate

behaviour is corrected to the satisfaction of the Region. These changes are reflected in Section 15.3b of the By-law.

### **Material in Enclosures**

A new section (16.6) has been added to the By-law to provide service users using enclosures to store Materials, with criteria for these enclosures. The purpose of establishing criteria is to ensure enclosures are constructed in a manner that does not pose a health and safety risk to the collector.

### **Communal Collection Points**

Section 16.2 has been updated so that Premises that place their Material at a Communal Collection Point must ensure all collection containers are labelled with the Dwelling Unit address to clearly distinguish separation from neighbouring Premises.

### **Uncontained Material**

In addition to the existing wording in Section 19, which requires that Owners of Premises ensure that Material set out for collection does not become uncontained and are responsible for immediate clean-up of all uncontained Material, the By-law has been updated to state that if the uncontained Material is not cleaned up, the Region may clean up the Material and charge the Owner for this work. Wording has also been added to outline a notification process for Premises with persistent issues of uncontained Material.

### **Notices and Orders for Clean-up**

Where a Person or Owner is in Non-compliance with this By-law and if the Non-compliance continues despite the Region's attempts to obtain compliance, as outlined in Section 41.1, the Region may forthwith perform the work required to obtain compliance with this By-law, by way of an Order, as determined by Region staff as outlined in Section 49.

Section 49 has been expanded to facilitate the enforcement of Orders, which was previously not specified in By-law No.2017-56.

### **Authorize collection of Non-Compliant or Non-Collectable Material**

Section 20.3 has been added to the By-law to authorize the collection of Non-Compliant or Non-Collectable Material by the Region or its Contractors for the purpose of investigation or health, safety and welfare of the general public.

The following changes have been made to the list of Acceptable Materials:

- Section 26.1 Acceptable Materials for Compositing: added (g) organic material which has decomposed under anaerobic conditions;
- Section 28.1 Acceptable Materials for Landfilling: Clarified (e) soil or dirt in acceptable quality and quantity, as determined by the Region.

### **Regional Drop-off Location Restrictions**

Regional Drop-off Location restrictions have been updated to include an anti-idling provision. Section 33 specifies that no Person shall cause of permit a vehicle to idle for more than three (3) minutes.

### **Illegal Dumping**

In addition to the current guidelines prohibiting a Person from dumping or depositing Material into public litter bins or on any public road or property, Section 38 now includes restrictions on dumping Material within a one (1) metre radius of a public litter bin.

### **Enforcement: Friendly Reminders**

To encourage compliance, with this By-law, the Region may use Friendly Reminders and Final Friendly Reminders to inform Persons or Owners of Non-Compliance. Where a Person or Owner is in Non-Compliance with this By-law and if the Non-Compliance continues, despite the Region's attempts to obtain compliance, the Region may proceed with an Order requiring the Person or Owner to correct the contravention, as outlined in Sections 49.

### **Additions and Modifications to Definitions Section**

The following definitions have been revised:

“Amnesty Week” has been updated from what was previously “Garbage Exemption Week”. It has also been updated to reflect the changes in garbage container limits related to every-other-week garbage collection.

“Bulky Goods” has been revised to reflect more examples of acceptable items, including large toys and water softening units.

“Friendly Reminder” has been updated to include “Final Friendly Reminders” in the definition of written notices used by the Region.

“Garbage Exemptions” has been simplified for clarity.

“Garbage Tag” has been updated to specify that tags must be untampered and affixed to the neck of a waterproof bag or on top of Materials placed in a Garbage container.

“Green Bin Container” has been updated to include that the container may be a container from the Region or other rigid reusable closed or open-top container clearly labelled with handles.

“Leaf and Yard Material” has been updated to add logs to the list of materials that are not considered “Leaf and Yard Material”.

“Pet Waste” has been broadened to include pet bedding to animal excrement generated by small household pets.

“Regional Drop-Off Location” has been simplified for clarity.

“Set Out Service” has been updated to specify that it does not include “Leaf and Yard Material”, “Bulky Good”, “Brush” or any other excluded items As Designated by the Region.

“Sharps” has been updated to include safety engineered needs, laboratory class or other Materials capable of causing punctures or cuts.

The following new definitions have been added to the By-law:

“Care and Control”: Material shall be deemed to have been within the care and control of a Person at a point in time if the Material included any Material typically associated

with or used by that Person and shall include but is not restricted to the following Materials:

- a) mail and other paper products bearing the name, address or other identifying characteristics typically associated with that Person;
- b) Material that can on a balance of probabilities be shown to have been purchased by that Person;
- c) Material that can on a balance of probabilities be shown to have originated from Premises with respect of which a Person is considered an Owner and during the time the Person was considered an Owner;
- d) Materials that can on a balance of probabilities be shown to have been transported in a motor vehicle owned or under the care and control of the Person.

“Communal Collection Point” means a Collection Point approved or as determined by the Region, that is authorized for the use of more than one Premises.

“Construction, Renovation and Demolition”: Material includes but is not limited to windows, drywall, wood, metal, PVC pipe and other building Materials.

"Dwelling Unit" means a place of residence designed or intended for habitation by one (1) or more persons with its own culinary and sanitary facilities which are provided for the exclusive use of the person or persons who reside therein. If an Owner disagrees with the number of units contained within the Premises as assessed, it is up to the Owner to provide proof of the actual number of legally existing individual units within the Premises. In the absence of provision of proof to the satisfaction of the Region, the limit for the Premises in question shall be as determined by the Region.

“Illegal Dumping” means the disposing of Material in non-designated areas, such as public roads or ditches, public property and public litter bins, as set out in Section 38 of this By-law. Illegal Dumping does not include Litter.

"Litter" means debris, refuse, or Material discarded outside the regular Collection Point or lying scattered about the area.

"Liquid Material" means Material which is not solid and which exhibits evidence of free water, or other liquids, whether or not contained.

“Multi-Purpose Property” means a single property as defined by MPAC and/or contained in applicable Site Plan Conditions, housing multiple Premises types.

### **General revision and language updates**

The new By-law is a result of a collaborative team approach involving several meetings between the Region’s Legal and Court Services Division, front line staff and managers from the Waste Management Services Division. Terminology usage has been standardized in the By-law to use commonly understood words and clearly phrased responsibilities and prohibitions so that residents can easily understand how to deal with Recyclables and Garbage, both in their curbside collection and at the Regional Drop-Off Locations. It should be noted that By-law enforcement staff’s first priority has been and will continue to be the education of residents rather than simply levying fines. However, staff will continue to actively pursue illegal dumping and will levy fines when appropriate. The proposed By-law enhancements will provide staff with the necessary tools to enforce the By-law and levy fines if verbal or written communication with residents is not sufficient to achieve compliance.

The amended By-law will be posted on the Region’s website for review by residents and businesses.

### **Alternatives Reviewed**

Alternatives were not considered as the By-law required updates to align with previously approved program changes.

### **Relationship to Council Strategic Priorities**

The amendment of the By-law will support Council’s Strategic Priority of Sustainable and Engaging Government, specifically the promotion of high quality, efficient and co-ordinated core services.

### **Other Pertinent Reports**

WMPSC C-54-2017 Requirements for Waste Collection (C3.007)

WMPSC C-12-2017 Waste By-law Update

PW 61-2019 Base Level Service for Waste Management Collection Contract

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**Appendices**

Appendix 1 – Proposed Amendments to Solid Waste Management By-law.

Appendix 2 – Proposed Short Form Offences and Set Fines