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## MEMORANDUM

**PWC-C 46-2020**

**Subject:** Short Form Offences and Set Fine Schedule

**Date:** Tuesday, December 8, 2020

**To:** Public Works Committee

**From:** Susan McPetrie, Waste Management Services Advisor

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This memorandum is intended to advise Committee members that the Short Form Offences and Set Fine Schedule, to be enforced under the amended Solid Waste Management By-law No. 2017-56 has been approved, with amendments, by the Chief Justice of the Ontario Court (Provincial Division). The order took effect October 19, 2020 (Appendix 1).

### Background

On August 13, 2020, Regional Council approved the recommendations of the Public Works Committee to amend Solid Waste Management By-law No. 2017-56 to reflect the updates outlined in Report PW 34-2020. Council also approved the recommendation to forward the Short Form Offences and Set Fines Schedule as proposed in Report PW 34-2020 to the Chief Justice of the Ontario Court for approval, as required under the Provincial Offences Act. The forwarded Set Fines Schedule included the revisions as proposed in Committee's friendly amendment to increase the set fine amount for illegal dumping from \$500 to \$1000.

### Submission to Ontario Court of Justice

The amended by-law was approved at the Regional Council meeting held on September 17, 2020. On October 2, 2020, the proposed Short Form Offences and Set Fines Schedule was submitted to the Chief Justice. The submission included a rationale for the increased set fine amount that emphasized Niagara Region's commitment to addressing illegal dumping (Appendix 2). It noted that with the start of the new collection contract and service level changes, including every-other-week garbage collection, limitations on large item collection and discontinuation of large appliance and metal household item collection, the higher set fine amount would provide a greater deterrent to illegal dumping. As a result, the impacts of illegal dumping, such as contamination of

the natural environment, the creation of aesthetically displeasing areas and the financial and resource burden for investigation and clean-up would be reduced. The submission also included a proposed new short order offence, failure to comply with an order. This new offence and associated set fine will facilitate enforcement of orders to correct contraventions of the by-law.

### **Approval with Amendments**

On October 19, 2020, the Office of the Regional Senior Justice, Ontario Court of Justice sent notification to Niagara Region that the Schedule of Set Fines had been approved with amendments as shown below.

Table 1: Proposed and Approved Set Fine Amounts

| <b>Item</b> | <b>Short Form Wording</b>       | <b>Proposed Set Fine Amount</b> | <b>Approved Set Fine Amount</b> |
|-------------|---------------------------------|---------------------------------|---------------------------------|
| 32          | Illegal Dumping                 | \$1000                          | \$750                           |
| 37          | Failure to Comply with an Order | \$500                           | \$300                           |

Refer to Appendix 3 for the full schedule of approved Short Form Offences and Set Fines, which took effect October 19, 2020.

Respectfully submitted and signed by

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Susan McPetrie  
Waste Management Services Advisor

### **Appendices**

|            |   |
|------------|---|
| Appendix 1 | Order from Chief Justice of the Ontario Court |
| Appendix 2 | Set Fine Application Explanation              |
| Appendix 3 | Short Form Offences and Set Fines Schedule    |

## ***PROVINCIAL OFFENCES ACT***

### **Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2017-56, as amended, for The Regional Municipality of Niagara, attached hereto is the set fine for that offence. This Order is to take effect October 19, 2020.

Dated at Hamilton, this 19th day of October 2020.



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Paul R. Currie  
Regional Senior Justice  
Central West Region



**Corporate Services**

Legal and Court Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7  
905-980-6000 Toll-free: 1-800-263-7215 Fax: 905-685-7931

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**VIA E-MAIL ONLY TO Devyani.Anandjit@ontario.ca**

October 7, 2020

Ministry of the Attorney General  
Crown Law Office-Criminal  
720 Bay Street, 10th Floor  
Toronto, Ontario M7A 2S9  
Attention: Devyani Anandjit

Dear Ms. Anandjit:

Re: **The Regional Municipality of Niagara – Set Fine Application  
Part 1, *Provincial Offences Act*  
A By-law to Regulate the Use of the Waste Management System  
for The Regional Municipality of Niagara**

Further to your request of October, 5, 2020, enclosed please find a revised Consolidated Set Fine Schedule.

With respect to the proposed increased set fine of \$1,000 for illegal dumping, we note that Niagara Region is entering into a new waste management contract with service changes including every-other-week garbage collection, limitations on large item collection and discontinuation of large appliance and metal household item collection. The proposed increased fines are intended to provide a greater deterrent in the face of these service changes. Illegal dumping remains an ongoing and serious problem within the Region and the increased set fine confirms Niagara Region's commitment to change the attitude of future dumpers.

Illegal dumping has both an economic and environmental impact on local communities. Property values may decrease if neighboring vacant lots or rural areas are aesthetically displeasing and foul-smelling due to regular illegal dumping. Such illegal dumpsites pollute the natural environment through soil and water contamination and wildlife disruption. In deterring would-be illegal dumpers with an increased set fine amount, the Region's financial and resource burden required to investigate and clean up illegal dumping issues for both Niagara Region and the local area municipalities would be eased.

Should you require anything further, please advise.

Yours truly,

*Patricia D'Souza*

Patricia D'Souza  
Legal Counsel, Legal & Court Services  
PD/ek  
Encl.

**The Regional Municipality of Niagara  
Part 1 Provincial Offences Act  
By-law 2017-56 Waste Management By-law, as amended by By-law 2020-62**

**Short Form Offences and Set Fines**

| <b>Item</b> | <b>COLUMN 1<br/>Short Form Wording</b>   | <b>COLUMN 2<br/>Provision<br/>creating or<br/>defining<br/>offence</b> | <b>COLUMN 3<br/>Set Fine</b> |
|-------------|--|--|------------------------------|
| 1.          | Set-out of Non-Collectable Material  | <b>s. 14.1 (a)</b>   | \$100                        |
| 2.          | Set-out of Non-Compliant Material  | <b>s. 14.1 (b)</b>   | \$100                        |
| 3.          | Setting out hazardous or pathological Material for collection  | <b>s. 14.1 (a)</b>   | \$500                        |
| 4.          | Not securing animal to ensure collection worker safety   | <b>s. 14.6</b>   | \$100                        |
| 5.          | Depositing Material into a collection vehicle  | <b>s. 14.8</b>   | \$100                        |
| 6.          | Obstructing road or sidewalk with Material   | <b>s. 15.1</b>   | \$250                        |
| 7.          | Setting out Material at premises other than your own   | <b>s. 15.3</b>   | \$100                        |
| 8.          | Permitting Material at any time in the Care and Control of an Owner to be located otherwise than on their own Premises or in a permitted Collection location | <b>15.4</b>  | \$100                        |
| 9.          | Setting out waste contrary to specified times  | <b>s. 16.1</b>   | \$75                         |
| 10.         | Failing to remove containers <b>and Material</b> after collection  | <b>s. 16.2</b>   | \$75                         |
| 11.         | Failing to set out an acceptable container   | <b>s. 17.1</b>   | \$75                         |
| 12.         | Failing to ensure containment of Material set out for collection   | <b>s. 18.1</b>   | \$100                        |
| 13.         | Dropping off unacceptable Material at Regional Drop-Off Location   | <b>s. 22.1</b>   | \$500                        |
| 14.         | Depositing Garbage into recycling bins or composting areas at Regional Drop-Off Location   | <b>s. 32.1 (l)</b>   | \$200                        |
| 15.         | Depositing recyclable Material in Garbage bin or landfill areas at Regional Drop-Off Location  | <b>s. 32.1 (m)</b>   | \$100                        |

| <b>Item</b> | <b>COLUMN 1<br/>Short Form Wording</b>  | <b>COLUMN 2<br/>Provision<br/>creating or<br/>defining<br/>offence</b> | <b>COLUMN 3<br/>Set Fine</b>         |
|-------------|---|--|--------------------------------------|
| 16.         | Trespassing at Regional Drop-Off Location by illegal entry                            | <b>s. 33.1</b>   | \$500                                |
| 17.         | Trespassing at Regional Drop-Off Location or closed landfill or perimeter when closed | <b>s. 33.2</b>   | \$500                                |
| 18.         | Trespassing at Regional Drop-Off Location or perimeter with vehicle                   | <b>s. 33.3</b>   | \$500                                |
| 19.         | Failing to drop off only acceptable Material at RDOL                                  | <b>s. 34.1 (a)</b>   | \$200                                |
| 20.         | Failing to comply with Regional Drop-Off Location staff directions                    | <b>s. 34.1 (b)</b>   | \$200                                |
| 21.         | Failing to obey signs at Regional Drop-Off Location                                   | <b>s. 34.1 (c)</b>   | \$200                                |
| 22.         | Failing to separate and deposit Material properly at Regional Drop-Off Location       | <b>s. 34.1 (d)</b>   | \$200                                |
| 23.         | Failing to remove covers as directed at Regional Drop-Off Location                    | <b>s. 34.1 (f)</b>   | \$200                                |
| 24.         | Failing to remove loose Material after unloading at Regional Drop-Off Location        | <b>s. 34.1 (g)</b>   | \$200                                |
| 25.         | Failing to secure vehicle after unloading at Regional Drop-Off Location               | <b>s. 34.1 (h)</b>   | \$200                                |
| 26.         | Failing to ensure child under 12 stays in vehicle at Regional Drop-Off Location       | <b>s. 34.1 (i)</b>   | \$200                                |
| 27.         | Failing to ensure children act responsibly at Regional Drop-Off Location              | <b>s. 34.1 (j)</b>   | \$200                                |
| 28.         | Failing to ensure animal stays in vehicle at Regional Drop-off Location               | <b>s. 34.1 (k)</b>   | \$200                                |
| 29.         | Failing to pay fees before departing Regional Drop-Off Location                       | <b>s. 34.1 (m)</b>   | \$200                                |
| 30.         | Failing to refrain from smoking on Regional Drop-Off Location                         | <b>s. 34.1 (o)</b>   | \$200                                |
| 31.         | Transporting insecure load  | <b>s. 36.1</b>   | \$100                                |
| 32.         | Illegal dumping   | <b>s. 37.1</b>   | <del>\$1000</del><br><b>\$750.00</b> |

| Item | COLUMN 1<br>Short Form Wording                              | COLUMN 2<br>Provision<br>creating or<br>defining<br>offence | COLUMN 3<br>Set Fine            |
|------|---|---|---------------------------------|
| 33.  | Dumping privately generated Material into public Litter bin | s. 37.2   | \$150                           |
| 34.  | Illegal dumping Care and Control                            | s. 37.3   | \$250                           |
| 35.  | Scavenging Material set out for collection                  | s. 38.1   | \$100                           |
| 36.  | Scavenging at a Regional Drop-Off Location                  | s. 38.2   | \$250                           |
| 37.  | <b>Failure to comply with an Order</b>                      | s. 48.3   | <b>\$500</b><br><b>\$300.00</b> |



Note: The general penalty provision for the offences listed above is Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.