



REPORT FOR ACTION

Amendments to Chapter 548, Littering and Dumping, and Chapter 545, Licensing

Date: March 31, 2017

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report proposes a number of amendments to Toronto Municipal Code, Chapter 548, Littering and Dumping of Refuse and Chapter 545, Licensing, with the aim to reduce litter, including cigarette, cigar, e-cigarette, and chewing gum litter; strengthen the City's ability to enforce its by-laws; as well as achieve common terminology among the City's various litter/waste by-laws.

These amendments represent the outcomes of a second phase, of a comprehensive by-law review conducted in 2016.

The first phase involved amendments to Chapter 545, Licensing, to place additional requirements on the City's licensed businesses to maintain areas surrounding their establishments free from litter and to install and maintain temporary receptacles to capture cigarette butt litter.

The amendments in this report are recommended by the City's Multi-Divisional Litter Working Group and respond to directives from City Council and Public Works and Infrastructure Committee.

Specifically, this report proposes the following key changes:

- 1) an amendment to clarify separate provisions to distinguish littering from illegal dumping;
- 2) the addition of provisions that will strengthen prohibitions on illegal dumping in public litter and recycling bins/receptacles and in regulation containers (i.e., garbage, Blue Bin recycling, yard waste and Green Bin organic containers), which belong to another person or entity;
- 3) an amendment to the definition of "garbage" to include elements previously defined as "refuse" and to explicitly include cigarette butts, cigar tips, e-cigarettes and their components, and chewing gum;

- 4) the replacement of the term "refuse" with the term "waste" and an amendment to the definition of waste;
- 5) the deletion of all references to "special collection materials"; and
- 6) an amendment to clarify the entry and inspection powers of City officials, including the addition of a definition of "Executive Director" of Municipal Licensing and Standards.

Solid Waste Management Services (SWMS), Transportation Services, Economic Development and Culture, Toronto Water, Toronto Public Health, and Legal Services were consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council amend Toronto Municipal Code, Chapter 548, Littering and Dumping of Refuse, as follows:

- a. Delete from the chapter title, the words "of Refuse" so that the chapter title reads "Chapter 548, Littering and Dumping";
- b. Delete the definition of "REFUSE";
- c. Amend the definition of "WASTE" to read: "Garbage, recyclable materials, organic materials, yard waste and prohibited waste";
- d. Remove all references to the term "refuse" and replace with the term "waste";
- e. Amend the definition of "GARBAGE" to include elements of the definition of "REFUSE" and explicitly include 'cigarette butts, cigar tips, electronic cigarettes and their components, and chewing gum', so that the definition reads:

GARBAGE – Waste other than recyclable materials, organic materials, yard waste and prohibited waste, and includes but is not limited to:

- A. cigarette butts, cigar tips, electronic cigarettes and their components, and chewing gum";
- B. debris, junk or specific effluent belonging to or associated with a house or household or any industry, trade or business;
- C. inoperative vehicles, vehicle parts or accessories; and
- D. any other unused or unusable material that by reason of its state, condition or excessive accumulation, appears to:
 - i) have been cast aside, discarded or abandoned; or
 - ii) be worthless, useless or of no particular value; or
 - iii) be used up, expended or worn out in whole or in part.

- f. Delete the definition of "SPECIAL COLLECTION MATERIALS" and "Schedule C, Special Collection Materials";
 - g. Delete the words 'dump' and 'dumped' from § 548-3 A and B;
 - h. Prohibit persons from depositing or dumping their privately generated waste into:
 - i. public litter and recycling bins/receptacles, and
 - ii. regulation containers belonging to another person or entity, without that person or entity's consent;
 - i. Specify the authority of an officer, employee or agent of the City to enter on land, at any reasonable time, for the purpose of carrying out an inspection to determine compliance with the by-law, a direction or order of the City or a direction or order made under a by-law, or a condition of a licence; and
 - j. Add a definition of "EXECUTIVE DIRECTOR" to mean: "The Executive Director of the Municipal Licensing and Standards Division, or his or her designate".
2. City Council approve amendments to Toronto Municipal Code, Chapter 545, Licensing, to:
- a. Add a definition of the term "WASTE" to mean: "Garbage, recyclable materials, organic materials, yard waste and prohibited waste"; and
 - b. Remove all references to the term "refuse" and replace with the term "waste".
3. City Council direct that the proposed changes come into force on May 1, 2017.

FINANCIAL IMPACT

There are no financial impacts beyond what has already been approved in the current year's budget.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of October 5, 6, and 7, 2016, City Council adopted amendments to Toronto Municipal Code, Chapter 545, Licensing, to require all licensed business establishments to: (1) maintain the public sidewalks, curbs and gutters surrounding their businesses free from littered cigarette butts, cigar tips, electronic cigarettes and any refuse disposal generated by their patrons; and (2) install and maintain temporary cigarette disposal containers or receptacles.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS13.3>

At its meeting of November 20, 2013, Public Works and Infrastructure Committee requested, among other things, a report back on the progress made on the implementation of the strategy to reduce litter; the resources required for effective by-law enforcement; and a review of the litter by-law with proposed amendments so that it is enforceable.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PW27.6>

At its meeting of March 19, 2013, Public Works and Infrastructure Committee requested a report back on a strategy to reduce cigarette butt litter in Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PW21.12>

COMMENTS

City divisions including Municipal Licensing and Standards (ML&S), Solid Waste Management Services, Transportation Services, and Economic Development and Culture, work collaboratively to deliver services and programs to manage litter in public spaces through manual and mechanical litter collection along streetscapes and roadways, maintenance and servicing of public use litter and recycling bins, participation in annual inter-divisional spring clean-ups and various community clean-up events, and in the enforcement of the City's various by-laws respecting litter and waste.

Together, these divisions also participate in a Multi-Divisional Litter Working Group, which meets to address City-wide litter concerns. As one of the Multi-Divisional Litter Working Group's initiatives, ML&S took the lead to review Chapter 548, Littering and Dumping of Refuse, as well as examine various littering provisions contained in other City of Toronto by-laws.

The review was launched in response to directives from City Council and Public Works and Infrastructure Committee, and was conducted throughout 2016.

The first phase of amendments, adopted by City Council at its meeting of October 5, 6, and 7, 2016, involved amendments to Chapter 545, Licensing, to place additional requirements on the City's licensed businesses to maintain areas surrounding their establishments free from litter and to install and maintain temporary receptacles to capture cigarette butt litter.

The second phase of amendments, presented in this report, build on those amendments, and support the City's ongoing efforts to reduce litter.

Proposed Amendments

Chapter 548, Littering & Dumping of Refuse

1. Clarify Separate Provisions to Distinguish Littering from Dumping

Chapter 548 contains similar provisions to prohibit the acts of littering and dumping, under § 548-3 and § 548-4.

§ 548-3 specifies that "no person shall, throw, place, dump, deposit or permit or cause to be thrown, placed, dumped or deposited any refuse on any highway within the City [...] and on any land not including buildings, within the City, including ponds, lakes, rivers and watercourses, without the consent of the owner or occupant of the property". Under this provision, littering and dumping is prohibited.

§ 548-4 specifies that "no person shall place, dump or deposit or permit to be placed, dumped or deposited any quantity of waste on any land, not including buildings, within the City, including on any land, not including buildings, within the City, including ponds, lakes and streams, except as required or permitted under Chapter 841, Waste Collection, Commercial Properties, and Chapter 844, Waste Collection, Residential Properties".

Both sections make reference to the act of dumping. However, acknowledging that there are differences in the type, volume, and clean-up associated with waste that is littered compared to waste that is dumped, it is important to distinguish between the two and apply fines that are appropriate to the offence. In order for the City to be able to charge a fine amount for littering that is different from the fine amount for dumping of waste, provisions for each must be separate and clearly distinct.

Accordingly, staff propose that the terms "dump/dumped" be deleted from § 548-3 A. and B., in order to clarify the provision/offence as one specific to littering. § 548-4 will remain a provision/offence specific to dumping.

2. Add a Prohibition to Deter Persons from Illegally Dumping in Public Litter and Recycling Bins/Receptacles and in Regulation Containers

Illegal dumping continues to pose challenges for many municipalities, and Toronto is no exception.

Illegal dumping is the unlawful deposit of waste, larger than litter, onto private or public property. The act itself is a very deliberate process carried out by individuals to avoid disposal fees and/or the time and effort required for proper disposal.

Although instances of illegal dumping occur across the City, ML&S Parks and Waste Enforcement staff report specific challenges in prosecuting charges of illegal dumping that occur in and around public litter and recycling bins/receptacles located along City

streets as well as inside the City's parks. Parks, in particular, are a prime target for illegal dumping as they offer perpetrators relatively easy access to come and go unseen.

There are also related issues of illegal dumping that occur in regulation containers (i.e., garbage, Blue Bin recycling, yard waste and Green Bin organic containers) that belong to another person or entity. As one example, ML&S Parks and Waste Enforcement staff report finding materials that have been illegally dumped into waste containers located at community centres.

Under Chapter 548 (§ 548-4), dumping onto any land is clearly prohibited. However, the current prohibition does not capture the above scenarios where a person unlawfully dumps or deposits his or her privately generated waste into public litter and recycling bins/receptacles or into regulation containers that belong to another person or entity. Therefore, staff propose expanding the requirements of § 548-4 to prohibit these actions.

3. Update the Definition of "Garbage" to be Consistent with Other City By-laws and to also include Cigarette Butts, Cigar Tips, E-Cigarettes and their Components, and Chewing Gum

Chapter 548 provides a definition of "garbage" to include "waste other than recyclable materials, organic materials, yard waste, special collection materials and prohibited waste". Staff propose a number of amendments to this definition.

First, staff propose that the existing definition be amended to delete 'special collection materials' to be consistent with the definition also used in Chapters 841, 844 and 846.

Second, staff propose that elements currently defined as "refuse" such as debris, junk, unusable material, etc. be added to the definition of "garbage". According to Solid Waste Management Services, these items more appropriately reflect items considered garbage, which have no recoverable value.

Finally, staff propose that explicit reference be made to cigarette butts, cigar tips, electronic cigarettes and their components, and chewing gum. According to results from Solid Waste Management Services' last three Litter Audits, cigarette butts and chewing gum were the most commonly found small litter items (i.e., less than four square inches in size). Specifically in the 2016 Litter Audit, gum was the most prevalent (accounting for 25.4% of all small litter audited), followed by cigarette butts (at 22.31%). It is important to increase public awareness and recognition that litter includes the improper disposal of these items, as there are people who may not otherwise drop garbage onto the ground, who see nothing wrong or do not consider tossing cigarette butts or cigar tips or spitting out their gum, as littering. There is also the emerging use of e-cigarettes, some of which are entirely disposable, and others, which have disposable components (cartomizers, cartridges, e-liquid bottles, batteries, etc.) that are harmful to the environment, when improperly disposed of. Batteries, specifically, are considered hazardous waste.

The updated definition of garbage will read: "waste other than recyclable materials, organic materials, yard waste, and prohibited waste, and includes but is not limited to: (a) cigarette butts, cigar tips, electronic cigarettes and their components, and chewing gum"; (b) debris, junk or specific effluent belonging to or associated with a house or household or any industry, trade or business; (c) inoperative vehicles, vehicle parts or accessories; and (d) any other unused or unusable material that by reason of its state, condition or excessive accumulation, appears to: have been cast aside, discarded or abandoned; be worthless, useless or of no particular value; or be used up, expended or worn out in whole or in part.

4. Remove the Term "Refuse" and Replace with the Term "Waste" which will have an Updated Definition Consistent with Other City By-laws

Currently, Chapter 548 provides a definition of "refuse" to include "debris, junk or specific effluent belonging to or associated with a house or household or any industry, trade or business, including all items in the definition of waste; inoperative vehicles, vehicle parts or accessories; and any other unused or unusable material that by reason of its state, condition or excessive accumulation, appears to have been cast aside, discarded or abandoned; to be worthless, useless or of no particular value; or to be used up, expended or worn out in whole or in part." The definition is general to not exclude the various types and forms of refuse.

To simplify the by-law, improve readability, as well as achieve consistency with new common terminology used by Solid Waste Management Services in their Waste By-laws (Chapters 841, 844 and 846), staff propose the removal of the term "refuse" from Chapter 548's title, the deletion of the existing definition of "refuse" and the replacement of "refuse" with the term "waste" throughout the by-law.

Staff also propose that the existing definition of waste (defined as "garbage, special collection materials, recyclable materials, organic materials, yard waste and prohibited waste") be amended to remove "special collection materials". The updated definition of waste will read "garbage, recyclable materials, organic materials, yard waste and prohibited waste", which will be the same definition used in Chapters 841, 844 and 846.

5. Delete the Definition of "Special Collection Materials" and "Schedule C"

After consulting with Solid Waste Management Services, it was determined that the inclusion of a definition and a schedule listing the items for special collection, are no longer required in Chapter 548 as the City's provision of special collection services are already addressed in Solid Waste Management Services' Waste Collection By-laws. Accordingly, staff propose that the existing definition and associated Schedule C, be deleted from Chapter 548.

6. Add Provisions to Reflect the Authority of City Officials to Enter/Inspect Land and a Definition of "Executive Director"

Under Section 376 of the *City of Toronto Act, 2006* (COTA), the City has the power to pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, a direction

or order of the City or a direction or order made under a by-law, a condition of a licence, etc.

As there are provisions in Chapter 548 that may require entry onto private land for the purposes of inspection, staff propose that an amendment be made to Chapter 548 to explicitly reference this authority. The amendment will clarify that appropriate City officials including Municipal Standards Officers, employees, or agents of the City, may enter private land to inspect properties.

Similar provisions exist in other City by-laws, including:

- Chapter 743, Streets and Sidewalks, Use Of (§ 743-47);
- Chapter 844, Waste Collection, Residential Properties (§ 844-25.1);
- Chapter 489, Grass and Weeds (§ 489-4. A.);
- Chapter 632, Property, Vacant or Hazardous (§ 632-6); and
- Chapter 545, Licensing (§ 545-5. B.).

As the enforcement of Chapter 548 is carried out by ML&S, staff also propose that a definition of "Executive Director" be added to the by-law, in order to capture the authority of the Executive Director of ML&S or his or her designate.

Chapter 545, Licensing

1. Add a Definition for the Term "Waste" and Remove the Term "Refuse" and Replace with the Term "Waste"

Chapter 545 contains specific provisions around refuse under several articles, including:

- Article I, General Provisions (§ 545-5. G.)
- Article IV, Refreshments Sold from Vehicles (§ 545-38. D. (7), J. (5); § 545-39. A. (8));
- Article X, Food Establishments (Other Than in Hotels) (§ 545-157. B. and C.);
- Article XLI, Entertainment Establishment/Nightclub (§ 545-498); and
- Article XLII Clothing Drop Box (§ 545-506).

Staff propose removing all references to the term "refuse" throughout the by-law, replacing it with the term "waste", and adding a corresponding definition of "waste" to be in line with the new common terminology used by Solid Waste Management Services in their Waste By-laws (Chapters 841, 844, 846), as well as with the changes to Chapter 548 outlined in this report.

Collectively, these amendments support litter reduction, improve enforceability, enhance readability of, and provide for consistency in definitions among the City's various litter/waste by-laws.

Next Steps

If City Council adopts the recommendations contained in this report, ML&S will communicate the new by-law requirements through a combination of public and stakeholder education initiatives and outreach methods. A new set fine application will

also be submitted for approval to the Regional Senior Justice of the Ontario Court of Justice.

CONTACT

Rod Jones
Director, Bylaw Enforcement
Municipal Licensing and Standards
Tel: 416-338-6460
Email: Rod.Jones@toronto.ca

SIGNATURE

Tracey Cook
Executive Director, Municipal Licensing and Standards