



CITY OF  
ST. CATHARINES

## Corporate Report

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**Report from** Planning and Development Services, Building and Development

**Date of Report:** April 29, 2013

**Date of Meeting:** May 13, 2013

**Report Number:** PDS-127-2013

**File:** 56.49.3

**Subject:** Waste Diversion Deposits on Building and Demolition Permits

### Recommendation

That Council receive for information purposes the report from Planning and Development Services, dated April 29, 2013, regarding Waste Diversion Deposits on Building and Demolition Permits.

### Background

Council directed that Staff prepare a report on the feasibility of requiring a diversion deposit on demolition permits which would be reimbursed upon the applicant diverting a percentage of the refuse to be recycled; and report on a similar deposit on building permits for the recycling of construction materials. This report covers both requests.

This report consolidates and summarizes information provided by the City's Senior Counsel as well as research regarding similar initiatives in other jurisdictions.

### Report

#### Jurisdiction Over Waste Management

In 1996, the Niagara Region passed a by-law assuming responsibility for waste management from the City of St. Catharines. This by-law was passed under the then-*Regional Municipalities Act* (which was carried into the *Municipal Act, 2001*.)

Accordingly, the Niagara Region has exclusive jurisdiction to pass by-laws relating to waste management. Therefore, the City cannot collect a fee (or deposit) for waste diversion because the fee is related to waste management which is a service provided by the Region.

#### Fees or Deposits Under the Building Code Act or the Planning Act

Fees collected under the *Building Code Act* and the *Planning Act* are strictly regulated; they must not exceed the reasonable anticipated costs of the City to administer and enforce the Acts, and only insofar as it has jurisdiction under the Acts. Further, there would be no costs borne by the City in the case of non-compliance. The proposed fee or deposit would not relate in any way to the City's administration or enforcement of either Act.

**Other Municipalities**

The jurisdiction of waste management has been assigned to every Regional government in Ontario as prescribed in the *Municipal Act, 2001*.

**Financial Implications**

Not applicable.

**Conclusion**

Before the City can pass a valid by-law there must be some statutory authority established. The only direct authority relating to waste management that did exist was conveyed to the Regional level under the *Municipal Act, 2001*. It is the opinion of staff that a by-law requiring diversion deposits would be ultra vires (beyond the municipality's powers), and thus invalid and unenforceable.

**Notification**

Not applicable.

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