

# Technical Memorandum

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<b>Subject</b>	Addition to CRD Framework Memorandum – Enforcement Enhancements		

## 1. Introduction

The Capital Regional District (CRD) Solid Waste Framework Memorandum was developed for the CRD and included recommendations for amending the Hartland Tipping Fee and Regulation Bylaw No. 3881 (Bylaw) to promote waste reduction and diversion. Recommendations included updates to the current tipping fee schedule and increased enforcement measures.

As the Bylaw amendments introduce material bans and differentiated tipping fee structures for mixed and source separated materials, there will be a need for enhanced Bylaw enforcement and additional bylaw officer training, so fines are distributed on a consistent basis. The introduced bans and tipping fees will require the CRD to revise the current bylaw enforcement guidance document to include clear tolerance levels and specified thresholds for enhanced guidance on when tickets should be issued. Revisions to Schedule 19 of the CRD's Ticket information Authorization Bylaw 1857 will also be required to reflect the increase and expansion of fines.

This memorandum is intended to provide a high-level review of thresholds and fines used within neighbouring jurisdictions, along with the potential implications of increased enforcement and fines.

## 2. Jurisdictional Scan

A scan of solid waste bylaw enforcement measures was completed for neighbouring jurisdictions to identify thresholds for allowable contamination when disposing various waste streams, financial penalties for infractions against disposal bylaws, and additional information regarding solid waste and ticket authorization bylaw fee structures. The summaries in Table 1 below present the current CRD enforcement measures in place and high-level findings for neighbouring jurisdictions.

Table 1 Jurisdictional Scan of Enforcement Measures

Jurisdiction	Contamination Threshold/Tolerance	Fine/Fee Structure	Other Penalties	Administration
<b>Capital Regional District<sup>1</sup></b>	<ul style="list-style-type: none"> <li>– The CRD follows an internal guidance document outlining allowable contamination thresholds.</li> </ul>	<ul style="list-style-type: none"> <li>– Deposit of recyclable material \$100 fine.</li> <li>– Improper deposit mandatory recyclable \$50 fine.</li> <li>– Improper deposit voluntary recyclable \$50 fine.</li> <li>– Deposit EPR material \$200 fine.</li> <li>– Improper deposit EPR material \$50 fine.</li> <li>– Deposit unsorted renovation, and demolition \$200 fine.</li> <li>– Improper deposit unsorted renovation, and demolition \$100 fine.</li> <li>– Improper deposit kitchen scraps \$200 fine.</li> <li>– Fail to source separate solid waste \$100 fine.</li> <li>– Failure to pay fee \$300 fine.</li> </ul>	<ul style="list-style-type: none"> <li>– None in place.</li> </ul>	<ul style="list-style-type: none"> <li>– By visual inspection.</li> </ul>
<b>Cowichan Valley Regional District<sup>2</sup></b>	<ul style="list-style-type: none"> <li>– None in place.</li> </ul>	<ul style="list-style-type: none"> <li>– Improper disposal of solid waste incurs a fine of \$125.</li> <li>– Tip fee of \$290 for out of region construction and demolition (C&amp;D) waste with no recyclables.</li> <li>– Tip fee of \$660 for C&amp;D waste mixed with recyclables.</li> </ul>	<ul style="list-style-type: none"> <li>– None in place.</li> </ul>	<ul style="list-style-type: none"> <li>– None in place.</li> </ul>
<b>Comox Valley Regional District</b>	<ul style="list-style-type: none"> <li>– Municipal solid waste (MSW) or C&amp;D waste loads containing 10% or more recyclable materials (by weight or volume, whichever is higher) will be charged the corresponding higher tipping fee.</li> <li>– Loads containing a higher volume of mixed materials, from residential or</li> </ul>	<ul style="list-style-type: none"> <li>– Depositing items contrary to the regulations incurs a fine of \$500.</li> </ul>	<ul style="list-style-type: none"> <li>– Continued contamination infractions may result in a temporary or permanent ban under the Bylaw.</li> <li>– Residential or commercial customers may be asked to reload their contaminated load and taken offsite.</li> </ul>	<ul style="list-style-type: none"> <li>– If paid within 14 days, fines are administered at 75% (\$375).</li> <li>– Assessed by staff on an individual basis and charged accordingly.</li> </ul>

<sup>1</sup> Current fines. The CRD is contemplating an increase to various offences effective January 1, 2024.

<sup>2</sup> Comox Valley Regional District. 2022. CSWM Tipping Fees and Disposal Regulation. Accessed online from [https://www.comoxvalleyrd.ca/sites/default/files/uploads/bylaws/720\\_cswm\\_tipping\\_fees\\_and\\_charges.pdf](https://www.comoxvalleyrd.ca/sites/default/files/uploads/bylaws/720_cswm_tipping_fees_and_charges.pdf)

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Jurisdiction	Contamination Threshold/Tolerance	Fine/Fee Structure	Other Penalties	Administration
	commercial sources, will be charged the corresponding higher tipping fee.			
<b>Regional District of Nanaimo<sup>3</sup></b>	<ul style="list-style-type: none"> <li>– Maximum Contamination threshold for MSW loads containing recyclables is 20%.</li> </ul>	<ul style="list-style-type: none"> <li>– When in exceedance, a fee of \$5 per load (0-50 kg) is charged.</li> <li>– 20% surcharge for loads over 50 kg.</li> </ul>	<ul style="list-style-type: none"> <li>– For licenced waste haulers, revocation of the Licensed Waste Hauler Tipping Fee and the application of the default tipping fee, plus a 20% Surcharge less the Disposal Levy.</li> <li>– A separate Offence is deemed to be committed upon each day during and in which the contravention occurs or continues.</li> </ul>	<ul style="list-style-type: none"> <li>– Based on visual inspection.</li> </ul>
<b>Metro Vancouver<sup>4</sup></b>	<ul style="list-style-type: none"> <li>– 5% maximum contamination threshold of the total weight of the load or 5% of the total volume of the load, for any combination of the following: <ul style="list-style-type: none"> <li>• Beverage containers</li> <li>• Other recyclable plastic, glass, metal, and composite material containers</li> <li>• Corrugated cardboard</li> <li>• Recyclable paper</li> <li>• Green waste</li> <li>• Clean Wood</li> <li>• Contaminated recyclable paper</li> </ul> </li> <li>– 25% threshold (25% of the total weight of the load or 25% of the total volume) for food waste.</li> <li>– 20% threshold (20% of the total weight of the load or 20% of the total volume of</li> </ul>	<ul style="list-style-type: none"> <li>– Exceeding the 5% threshold for recyclables will incur a 50% surcharge of the applicable Tipping Fee.</li> <li>– Exceeding the 25% threshold on food waste will incur a surcharge of 50% of the applicable Tipping Fee.</li> <li>– Exceeding the 20% threshold on expanded polystyrene packaging will incur a surcharge of 100% of the applicable Tipping Fee.</li> <li>– \$69 surcharge on any single banned Product Stewardship item.</li> <li>– Municipal Organics or Source-Separated Organic Waste that contains more than 0.05% of any other type of Refuse must pay a surcharge of \$50 per Load.</li> </ul>	<ul style="list-style-type: none"> <li>– None in place.</li> </ul>	<ul style="list-style-type: none"> <li>– Uses a phased in threshold approach<sup>5</sup>.</li> <li>– Pre-screen at the inbound scale to identify through visual inspection.(educational flyers may be distributed)<sup>3</sup>.</li> <li>– Uses a digital surcharge process. Tablet interfaced with weigh scale payment system and digitally notifies account customers of surcharges<sup>3</sup>.</li> <li>– When there are multiple banned materials present in a single load, surcharge is issued for material with the highest fee<sup>3</sup>.</li> </ul>

<sup>3</sup> Regional District of Nanaimo. 2022. Regional District of Nanaimo Tipping Fee and Solid Waste Disposal Regulation Bylaw No. 1784, 2019. Accessed online from [https://www.rdn.bc.ca/sites/default/files/inline-files/1784%20%28Consolidated%20to%2005%29\\_0.pdf](https://www.rdn.bc.ca/sites/default/files/inline-files/1784%20%28Consolidated%20to%2005%29_0.pdf)

<sup>4</sup> Metro Vancouver. 2022. 2021 Disposal Ban Program Update. Accessed online from <http://www.metrovancouver.org/services/solid-waste/recycling-programs/disposal-ban/Documents/2021-DisposalBanProgramUpdate%20-5.2-Report.pdf>

<sup>5</sup> Metro Vancouver. 2023. Metro Vancouver Disposal Ban Program Manual. Accessed online from <http://www.metrovancouver.org/services/solid-waste/SolidWastePublications/DisposalBanProgramManual.pdf>

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Jurisdiction	Contamination Threshold/Tolerance	Fine/Fee Structure	Other Penalties	Administration
	<p>the load) for expanded polystyrene packaging.</p> <ul style="list-style-type: none"> <li>– Municipal Organics or Source-Separated Organic Waste may contain no more than 0.05% (by wet weight) of any other type of Refuse.</li> </ul>			

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### 3. Tolerance and Threshold Best Practices

When introducing new and updated bylaws, it is best practice to implement a phased in approach that starts with higher thresholds for tolerance which decrease over time as education and awareness campaigns are rolled out<sup>6</sup>. This allows municipal staff, the public and industry to adjust to the new requirements and restrictions, such as material bans and changes to programs and enforcement.

Starting with a maximum of 15-20% contamination threshold (by weight or volume, whichever is higher) for mandatory recyclables that are more difficult to completely source separate, for reasons such as particle size and nature of the source of generation, is an appropriate baseline. This threshold level may include renovation and demolition materials such as asphalt shingles, carpet and underlay, clean wood, treated wood, and wood products, yard and garden materials, corrugated cardboard and mixed paper. Material processors receiving the diverted materials may have their own contamination thresholds that should be taken into consideration when setting the material baselines.

Maximum contamination threshold levels may be decreased incrementally over time (e.g., 10%, 5%, to zero tolerance). Mandatory recyclables that can be source separated with greater ease such as propane tanks and fire extinguishers, white goods, scrap metal, and EPR products typically have lower to zero-tolerance thresholds.

Higher rates of contamination are often found in multi-family and commercial loads, due to the volumes, types of materials, and collection methods<sup>4</sup>. Haulers may unlawfully deposit contaminated waste during peak Landfill hours to avoid detection of contaminated loads and the associated penalties. Bylaw enforcement can be enhanced at peak hours with increased bylaw officer presence.

To meet the objectives of the Bylaw updates, it is important that bylaw officers are adequately trained and have sufficient understanding of the bylaw updates, its purpose, and the principles of administrative fairness. Mandatory training requirements for bylaw enforcement staff is a best practice used throughout British Columbia<sup>7</sup>.

#### 3.1 Implications of Increased Fines

An effective enforcement program communicates to the public and industry that there is a high likelihood that non-compliant loads will be detected and have regulatory responses that sufficiently act as a deterrent<sup>7</sup>. Failure to have an effective deterrent encourages non-compliant behaviour and may result in repeat offenders.

Table 2 below shows the current and proposed fine structure presented in the Framework Memorandum for various solid waste offences at the Hartland Landfill. The proposed fines are aligned with inflation and support the CRD in meeting the objectives of the Bylaw. The table also includes the fine rates should the proposed fines be doubled. Doubling fines and the implications thereof was a suggestion raised by the CRD Board upon review of the Framework Memorandum.

Table 2 Current, Proposed and Doubled Fine Structure

Offence #	Offence	Current Fine	Proposed Fine	Doubled Fine
3	Non-District Waste	\$100	\$500	\$1,000
8	Deposit Recyclable Material	\$100	\$200 (first offence) \$300 (second offence) \$500 (third offence)	\$400 (first offence) \$600 (second offence)

<sup>6</sup> Metro Vancouver. 2023. Metro Vancouver Disposal Ban Program Manual. Accessed online from <http://www.metrovancouver.org/services/solid-waste/SolidWastePublications/DisposalBanProgramManual.pdf>

<sup>7</sup> Office of the Ombudsperson. 2016. Bylaw Enforcement: Best Practices Guide for Local Governments. Accessed online from <https://bcombudsperson.ca/assets/media/Special-Report-No-36-Bylaw-Enforcement-Best-Practices-Guide-for-Local-Governments.pdf>

Offence #	Offence	Current Fine	Proposed Fine	Doubled Fine
				\$1,000 (third offence)
9	Improper Disposal Mandatory Recyclable	\$50	\$200	\$400
10	Improper Deposit Voluntary Recyclable	\$50	\$200	\$400
13	Improper deposit EPR material	\$50	\$200	\$400
17	Deposit Unsorted Renovation and Demolition Waste	\$200	\$300	\$600
18	Improper Deposit Sorted Renovation and Demolition Waste	\$100	\$200	\$400
20	Fail to Source Separate Solid Waste	\$100	\$200 (first offence) \$300 (second offence)	\$400 (first offence) \$600 (second offence)

Increased fines and enforcement may have social, environmental, economic and administrative implications to the CRD and community, some of which are listed below.

**Positive outcomes:**

- Higher rates of mandatory source separated materials,
- Increased revenue to the CRD,
- Reduce occurrence of repeat offenders over time.

**Negative outcomes:**

- Public pushback, claiming unaffordable and unproportionate fines relative to severity of offence,
- Conflict between offenders and the scale house attendants and/or issuing bylaw officer,
- Increased volume of complaints, ticket disputes and the cost implications to the administrative process,
- Increased occurrence of illegal dumping to avoid contamination detection,
- Denial of service to repeat offenders may result in regional waste flow out of region and illegal dumping.

These outcomes may be compounded as the fines increase in cost (i.e., doubling the proposed rates). As the cost for fines increase substantially, the occurrence of negative outcomes such as illegal dumping, public pushback, ticket disputes and public/bylaw officer conflict may increase.

As a best practice when seeking behaviour change, education and awareness is the first and most important step. In addition to administering tickets, enforcement programs should include proactive and non-punitive measures to promote compliance, such as public education and awareness, and program/services promotion. The public should be made aware of the new bans and repercussions, as well as the programs and services accessible to them<sup>7</sup>. The Bylaw should be updated in plain language to be easily understood by the public<sup>7</sup>. In addition, the public should be provided with clarity and detail on how and why enforcement decisions are being made<sup>7</sup>.

Metro Vancouver practices this approach by providing educational resources to offenders at the scale house and active face, and if safe to do so, allows the offender to remove the banned materials from the load, or reload, to avoid a surcharge<sup>6</sup>.

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## 4. Recommendations/Closing

It is recommended that the CRD consider the proposed fines outlined in the Framework Memorandum to be implemented as part of the enhanced bylaw strategy. Doubling of the proposed fines as noted in Table 2 could lead to a higher risk of unintended consequences such as increased illegal dumping, conflict experienced by scales and bylaw staff and increased administrative costs associated with dispute processes.

Similar to the Comox Valley Regional District and City of Victoria, the CRD may wish to consider a discounted fee model for fine payments, where a 25% discount is applied to fines if paid before the 14<sup>th</sup> day or 30<sup>th</sup> day from which the ticket is served, shown in Table 3. The BC Community Charter Part 8 — Bylaw Enforcement and Related Matters allows for establishing different fine amounts depending on whether the amount is paid on or before the thirtieth day from the date on which the ticket is served, or after the 30<sup>th</sup> day<sup>8</sup>. This date threshold can be flexible, reducing to 14-days from which the ticket is served to incentivize expedited payment, which is commonly seen throughout municipalities and regional districts for various fines within BC. This approach aligns with best practices recommending leniency as education and awareness campaigns are rolled out, allowing the public and industry time to adjust to the new requirements and restrictions.

Discounts higher than 25% may impede the objectives of the Bylaw and set some fines at a lower rate than the current fine. A discount higher than 25% (e.g., 50%), may be considered through a phased in approach similar to tolerance thresholds. This allows the public and industry to adjust to the new restrictions with some leniency, with reductions to the discount levels over time.

*Table 3 Discounted Fee Model for Fine Payments*

Offence #	Offence	Current Fine	Proposed Fine	25% Reduced Fine on or before the 14 <sup>th</sup> – 30 <sup>th</sup> day	100% Fine after the 14 <sup>th</sup> day
3	Non-District Waste	\$100	\$500	\$375	\$500
8	Deposit Recyclable Material	\$100	\$200 (first offence) \$300 (second offence) \$500 (third offence)	\$150 (first offence) \$225(second offence) \$375 (third offence)	\$200 \$300 \$500
9	Improper Disposal Mandatory Recyclable	\$50	\$200	\$150	\$200
10	Improper Deposit Voluntary Recyclable	\$50	\$200	\$150	\$200
13	Improper deposit EPR material	\$50	\$200	\$150	\$200
17	Deposit Unsorted Renovation and Demolition Waste	\$200	\$300	\$225	\$300
18	Improper Deposit Sorted Renovation and Demolition Waste	\$100	\$200	\$150	\$200
20	Fail to Source Separate Solid Waste	\$100	\$200 (first offence) \$300 (second offence)	\$150 (first offence) \$225 (second offence)	\$200 (first offence) \$300 (second offence)

<sup>8</sup> Kings Printer. 2023. Community Charter [SBC 2003] CHAPTER 26 Part 8 — Bylaw Enforcement and Related Matters. Accessed online from [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/03026\\_08](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/03026_08)



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