

---

**REPORT 6**  
(1215/52/IM)

## **LITTER FINES**

---

### **1. Purpose of Report**

This report seeks agreement to increasing the maximum fines for littering from \$100 to \$400 pursuant to the Litter Act 1979, as amended in 2006, and to establish a graduated scale of fines to reflect various levels of offence.

### **2. Executive Summary**

Initially the maximum fine available under the Litter Act 1979 (the Act) for littering was \$100. Wellington City Council adopted this by resolution in December 2001. The Act was amended in 2006, raising the maximum allowable fine to \$400.

This report proposes the Council's maximum fine for Wellington District be raised to \$400 and that a graduated scale of fines be established to reflect the various levels of offence.

The primary aim of the increased fine levels is to deter the more serious offending. An information campaign designed to gain improved community understanding of the issues and reduced public tolerance for offending will also be a critical component in changing littering behaviour.

### **3. Recommendations**

Officers recommend that the Committee:

1. *Receive the information.*
2. *Note that the Litter Act (1979) requires 14 days public notification of the Council's intention to pass a resolution adopting infringement provisions. If the recommendations are consequently agreed by the Council, then public notification of that is also required before the resolution comes into force.*
3. *Agree to recommend to Council that, pursuant to the Litter Act 1979;*
  - a. *The maximum fine for littering in the Wellington District, to be in force from 1 August 2009, shall be \$400.*

- b. *The following offence descriptors and graduated scale of fines, to be in force from 1 August 2009, shall apply in the Wellington District:*

***Fines for disposal of waste in the Wellington District in a public place or on private land without the occupier's consent***

<b>Fine</b>	<b>Descriptors for typical offences</b>
\$100	<ul style="list-style-type: none"> <li>○ Depositing litter of less than 1 litre</li> </ul>
\$200	<ul style="list-style-type: none"> <li>○ Depositing litter from 1 to 20 litres</li> <li>○ Depositing potentially hazardous waste</li> </ul>
\$300	<ul style="list-style-type: none"> <li>○ Depositing litter from 20 to 120 litres</li> <li>○ Depositing waste in a public green space</li> <li>○ Depositing material from plants listed in the Council's Pest Plant Management Plan</li> </ul>
\$400	<ul style="list-style-type: none"> <li>○ Depositing litter of more than 120 litres</li> <li>○ Depositing hazardous waste</li> </ul>

- c. *Where an offence fits more than one descriptor, the higher fine shall apply.*
- d. *For a repeat of the same offence within 12 months, the next higher fine level shall apply, if applicable.*

4. *Instruct Council officers to give the necessary 14 days public notification of the proposed resolution in accordance with section 13(2A) of the Litter Act 1979.*

## **4. Background**

### **4.1 Allowable fines**

The Litter Act 1979 (the Act) enables the Council to establish an enforcement notice process so that warranted staff can issue instant fines or enforce a series of fines up to the maximum allowed. Only an officer warranted under the Act can issue an infringement notice.

Initially the maximum fine available under the Act for littering was \$100, and the Council adopted this by resolution in December 2001. The Act was amended in 2006, raising the maximum fine available to \$400.

### **4.2 Enforcement**

The Council currently has one warranted officer with a role dedicated to litter enforcement. In 2008, 129 infringement notices were issued and 15 warnings, compared with 55 and 24 respectively in 2006 (2007 data is not available).

The enforcement officer investigates reports of dumped rubbish received from Council staff, contractors and members of the public. Infringement notices are sent when an offender can be identified. Tracing offenders is a major barrier to the collection of fines and the key barrier to prosecution is creating a firm evidence base. To prosecute, the Council must evidence exactly who dropped what, and where and when the offence occurred.

## **5. Discussion**

### **5.1 *Deterrent effect of litter fines***

Higher fines are expected to have an improved deterrent effect. Information about the new fine levels will be incorporated into a wider information campaign aimed at improving community understanding of litter issues, reducing tolerance for offending and changing behaviour.

A structured survey to quantify resident understanding of responsibilities in regard to recycling and waste disposal is being used to inform Long Term Council Community Plan (LTCCP) 2009/19 deliberations and an information campaign is intended for the second half of 2009 in conjunction with the proposed recycling campaign. A plan for this will be developed once the LTCCP is finalised.

### **5.2 *Enforcement***

Enforcement will continue to target serious offences, i.e. those carrying a higher fine. Increasing the fine levels for serious offences will help to offset the cost of investigating complaints.

### **5.3 *Proposed maximum fine and graduated scale of fines***

The maximum fine of \$400 is appropriate for the more serious offending such as the depositing of hazardous waste or dumping over 120 litres of waste; minor offences such as littering of unbroken bottles that are not potentially hazardous to health or the environment would warrant only a \$100 fine on the graduated scale.

Repetition of offending should be considered as an escalation factor. This report proposes that for a repeat of the same offence within 12 months the next higher fine level should apply if available.

**Table 1: Proposed graduated scale of litter fines for the Wellington District**

Fines for disposal of waste in the Wellington District in a public place or on private land without the occupier's consent:	
<b>Fine</b>	<b>Descriptors for typical offences*</b>
\$100	<ul style="list-style-type: none"> <li>○ Depositing litter of less than 1 litre</li> </ul> <p><b>Examples:</b> <i>a takeaway container or contents of a car ash tray (it should be noted that enforcement of offences at this level is rare)</i></p>
\$200	<ul style="list-style-type: none"> <li>○ Depositing litter from 1 to 20 litres**</li> <li>○ Depositing potentially hazardous waste***</li> </ul> <p><b>Examples:</b> <i>roadside dumping of a single 1.5 litre plastic bottle, any whole glass container or a single disposable nappy, or placing household rubbish bags or accumulated car waste in public litter bins</i></p>
\$300	<ul style="list-style-type: none"> <li>○ Depositing litter from 20 to 120 litres****</li> <li>○ Depositing waste in a public green space</li> <li>○ Depositing of material from plants listed in the Council's Pest Plant Management Plan</li> </ul> <p><b>Examples:</b> <i>roadside dumping of small volumes of household or green waste, or of any pest plant material, or depositing any waste in a park</i></p>
\$400	<ul style="list-style-type: none"> <li>○ Depositing litter of more than 120 litres</li> <li>○ Depositing hazardous waste</li> </ul> <p><b>Examples:</b> <i>dumping commercial waste, multiple disposable nappies, car parts or glass, e-waste or animal remains</i></p>

\* Where an offence fits more than one descriptor, the higher fine shall apply. For repeat offending for the same offence within 12 months, the next higher fine level shall apply, if available.

\*\* 20 litres is the approximate maximum capacity of two standard supermarket bags.

\*\*\* "Hazardous waste" includes hazardous substances as classified under the Hazardous Substances and New Organisms Act 1996 and other potentially dangerous items such as syringes and broken glass.

\*\*\*\* 120 litres is the approximate maximum capacity of a standard 'wheelie bin'.

#### **5.4 Other local authorities**

While Christchurch City Council has the same fine level as Wellington City Council, other councils, such as Auckland City Council (2007) and Hutt City Council (2007), have moved to adopt the higher infringement fines. Dunedin City Council is currently reviewing its fines.

Hutt City and Auckland City councils have also adopted graduated scales to ensure fines are matched to the seriousness of various offence types. The tables below show the fine levels adopted:

**Table 2: Hutt City Council Litter Fines (since 2007)**

<b>Fine</b>	<b>Descriptors for typical offences</b>
\$100	dropping a cigarette butt or chewing gum in the street*
\$200	roadside dumping of a disposable nappy, or placing household rubbish bags in public litter bins
\$400	illegally dumping household waste, commercial waste, green waste, car parts or glass

\* Hutt City Council has advised that their general approach at this stage is to issue warnings for minor offending.

**Table 3: Auckland City Council Litter Fines (since 2007)**

<b>Fine</b>	<b>Descriptors for typical offences</b>
\$100	depositing litter of less than 1 litre in a public place or on private land without the occupier's consent
\$150	depositing litter from 1 to 20 litres in a public place or on private land without the occupier's consent
\$200	depositing litter from 20 to 120 litres in a public place or on private land without consent
\$400	depositing litter of more than 120 litres in a public place or on private land without consent
\$400	depositing animal remains in a public place or on private land without the occupier's consent

### **5.5 Proposed timeline for adoption of revised fine levels**

The proposed changes do not require the Special Consultative Procedure. The Act requires 14 days public notification of the Council's intention to pass a resolution adopting infringement provisions under the Act. If the recommended scale of fines is agreed by the Committee, there will be immediate public notification 14 days prior to the Council meeting on 29 June.

If the proposal is agreed by Council, officers propose public notification be given that the new fine levels will come into effect from 1 July 2009. Implementation is intended to commence with an information campaign as described in section 5.1.

## **6. Conclusion**

A proposal for increasing the maximum fines for littering from \$100 to \$400 and for a graduated scale of fines to reflect the levels of offence has been presented for consideration.

Contact Officer: *Mike Mendonça, Manager CitiOperations*

## **Supporting Information**

### **1) Strategic Fit / Strategic Outcome**

*This proposal is consistent with Council's Long Term Outcomes 4.3, 4.5, 4.6 and 4.7.*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*The project is contained in the Council Plan Activity 4.5.4. Later decisions on resourcing for this activity may have implications for future operational expenditure.*

### **3) Treaty of Waitangi considerations**

*No Treaty of Waitangi implications have been identified for this report.*

### **4) Decision-Making**

*This is not a significant decision.*

### **5) Consultation**

#### **a) General Consultation**

*This decision is made pursuant to the Litter Act 1979 and can be made by Council resolution. Public consultation is not required.*

#### **b) Consultation with Maori**

*No specific consultation with mana whenua has been undertaken for this report.*

### **6) Legal Implications**

*No legal implications have been identified for this report. Where an infringement notice is challenged, appropriate evidence must be available for consideration by the Court.*

### **7) Consistency with existing policy**

*The proposal is consistent with the Solid Waste Management Plan 2003 and existing policy on littering. It seeks to increase the maximum fine levels, while keeping fines appropriate to the offence.*