

DATE OF MEETING JUNE 21, 2021

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW ENFORCEMENT
KAREN ROBERTSON, DEPUTY CITY CLERK

**SUBJECT PROPERTY MAINTENANCE AND BYLAW NOTICE
ENFORCEMENT AMENDMENT BYLAWS**

OVERVIEW

Purpose of Report

To present for Council's consideration, an amendment to the "Property Maintenance and Standards Bylaw" to address the language associated with graffiti removal and to transfer the fines in Schedule A through an amendment to the Bylaw Notice Enforcement Bylaw.

Recommendations

Property Maintenance and Standards Bylaw:

That:

1. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" (to update the graffiti removal language, replace the Violation and Penalty section and delete the fine schedule) pass first reading;
2. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" pass second reading; and
3. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 pass third reading.

Bylaw Notice Enforcement Amendment Bylaw:

That:

1. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" (to delete the fine schedule for the repealed Property Maintenance Bylaw 1990 No. 3704 and replace it with fine schedule for Property Maintenance and Standards Bylaw 2017 NO. 7242) pass first reading;
2. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass second reading; and
3. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass third reading.

BACKGROUND

When preparing to take action against a commercial property owner who has been unresponsive to the City's letters directing them to remove the graffiti on their property, staff noted that the graffiti language provisions within the Property Maintenance and Standards were vague. As such, staff are bringing forward an amendment to the bylaw to clarify those provisions.

Staff have also taken the opportunity to review the bylaw for other required amendments and in this instance, updates to the violation and penalty language are required in order to issue tickets under the City's Dispute Adjudication Registry System (DARS) and to be consistent with other regulatory bylaws. The specific amendments for Council's consideration are highlighted in the discussion section of the report and highlighted in the attached redlined version of the bylaw (see Attachment 2).

DISCUSSION

1. Section 2 – Definition of Graffiti

The definition of graffiti has been redefined and simplified as recommended by the City Solicitor.

2. Section 4.5 – Graffiti Regulation

The clause for graffiti states that no person, owner or occupier of real property shall "place" graffiti on walls, fences, etc. The use of the word "place" is vague and needs to be replaced with the words "cause or permit" as noted in the other bylaw regulations.

3. Section 9 – Penalties

The section 9 penalty language is outdated and needs to be updated with the same violation and penalty language contained in other regulatory bylaws. The new provisions will also give the Bylaw Enforcement Officers the authority to issue tickets under the DARS program, which the City has been utilizing since 2014.

4. Section 10 – Schedules

This section needs to be deleted, as any changes to fines must be done by bylaw.

5. Schedule A – Fines

Previously, the City utilized a Provincial Ticketing system when issuing fines for non-compliance. This required the fines to be included within the regulatory bylaw. Now that the City utilizes the DARS system under the authority of the Bylaw Notice Enforcement Bylaw for all fines under \$500, the fines need to be transferred to that bylaw (see attached "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11").

OPTIONS

Enforcement of the graffiti provisions as currently worded are not possible, and the goal is to have consistent violation and penalty language in all regulatory bylaws. As such, staff recommend that Council approve the proposed amendments as outlined in the staff report by giving three readings to both the "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" and "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11".

Property Maintenance and Standards Bylaw:

That:

1. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" (to update the graffiti removal language, replace the Violation and Penalty section and delete the fine schedule) pass first reading;
2. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" pass second reading; and
3. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 pass third reading.

Bylaw Notice Enforcement Amendment Bylaw:

That:

1. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" (to delete the fine schedule for the repealed Property Maintenance Bylaw 1990 No. 3704 and replace it with fine schedule for Property Maintenance and Standards Bylaw 2017 NO. 7242) pass first reading;
2. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass second reading; and
3. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass third reading.

Option 2:

Given the legal nature of the proposed amendments, no alternate recommendation is being provided for those outlined in the staff report. However, should Council wish to make further amendments to the bylaw beyond those identified, specific direction from Council would be sought and a future report to highlight any implications would be required.

SUMMARY POINTS

- The definition of graffiti and the enforcement provision language in the Property Maintenance and Standards Bylaw was vague and needed to be clarified.
- The violation and penalty language within the bylaw was updated to be consistent with other regulatory bylaws.
- The fines were transferred to the Bylaw Notice Enforcement Bylaw so that tickets could be issued under the Dispute Adjudication Registry System under the authority of the Bylaw Notice Enforcement Bylaw.

ATTACHMENTS:

Attachment 1 – BL 7242.01 – Property Maintenance and Standards Amendment Bylaw
Attachment 2 – BL 7242 – Property Maintenance and Standards Bylaw (redlined version)
Attachment 3 – BL 7159.11 – Bylaw Notice Enforcement Amendment Bylaw

Submitted by:

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Concurrence by:

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