

DATE OF MEETING JULY 5, 2021

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SUBJECT PROPERTY MAINTENANCE AMENDMENT BYLAW – THIRD
READING, AS AMENDED

OVERVIEW

Purpose of Report

To rescind and re-read third reading of the Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 in order to update the definition of graffiti.

Recommendation

That Council rescind third reading of “Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01; and

That Council give third reading, as amended, to Property Maintenance and Standards Amendment 2021 No. 7242.01 (to include the revised definition for graffiti)

BACKGROUND

At the 2021-JUN-21 Council meeting, staff presented an amendment to the Property Maintenance and Standards Bylaw to better clarify the provisions that govern graffiti (see the 2021-JUN-21 staff report marked as Attachment 3). The proposed amendments outlined in that report included a redefined and simplified definition of graffiti and a change to section 4.5 to replace the word “place” with the words “cause or permit” so that it was consistent with the other provisions within that section.

During the Council meeting, it was noted that the new definition, as proposed, may conflict with section 4.5 in that the definition does provide an opportunity for an owner to give authorization for having letters, symbols or markings made on a structure but section 4.5 prohibits an owner from allowing graffiti to accumulate on a structure.

Staff advised that they would look into how the definition might conflict and get back to Council at the next meeting. In the interim, Council could move forward with giving the bylaw its first three readings, and then if necessary, rescind third reading if the results were such that there was the potential for a conflict.

DISCUSSION

Following the meeting, staff contacted the lawyer to enquire about the proposed discrepancy. The lawyer advised that the definition, as drafted, was aimed towards property owners who would not want graffiti placed on their building; however, agreed there was a remote chance that

a property owner could point to the definition and claim that they gave prior written authorization in order to avoid cleaning up their property. In response, a revised definition was provided that will close that potential loophole (see below).

Previous Definition

Graffiti means: Letter, symbols or marking made on any structure, building, thing or property without the prior written authorization of the property owner OR the City of Nanaimo.

New Definition

Graffiti means: Letters, symbols or markings made on any structure, building, thing or property without the authorization of the City of Nanaimo.

Note: The words “property owner” and “prior written” have been deleted. The goal of this revised definition is to continue to keep things simple but also avoid the mischief created should a property owner choose to permit graffiti that the City does not want.

Should Council be supportive of rescinding the bylaw and giving it third reading, as amended, to incorporate the revised definition for graffiti, the Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01, along with Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11, would be placed on the next available Council meeting for adoption.

OPTIONS

1. That Council rescind third reading of “Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01; and

That Council give third reading, as amended, to Property Maintenance and Standards Amendment 2021 No. 7242.01 (to include the revised definition for graffiti)

- The advantage to incorporating the revised definition is that it will not conflict with the provisions as outlined in section 4.5.
2. Should Council wish to make further amendments to the bylaw beyond those identified, specific direction would be sought and a future report to highlight any implications would be required.
 - The disadvantage to this option is that staff is currently dealing with a commercial property owner who has been unresponsive to the City’s letters directing them to remove the graffiti on their property. Any further amendments or postponement of readings would result in the staff being unable to proceed with enforcement until the fall.

SUMMARY POINTS

- On June, 21, 2021, staff presented an amendment to the Property Maintenance and Standards Bylaw to clarify the provisions that govern graffiti.
- The new definition had the potential to conflict with section 4.5 of the bylaw
- A revised definition for graffiti is now before Council for consideration.

ATTACHMENTS:

Attachment 1- B7242.01 – Property Maintenance and Standards Amendment Bylaw
(3rd Reading as Amended)

Attachment 2 - B7242 – Property Maintenance and Standards Bylaw (revised redlined version)

Attachment 3 - 2021-JUN-21 Staff Report

Submitted by:

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Karen Robertson,
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Concurrence by:

Bill Corsan,
Director, Community Development

Dale Lindsay,
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Sheila Gurrie,
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