

## FINE INCREASE FOR BYLAW 5590 - TRAFFIC BYLAW - OBSTRUCTIONS ALONG ROAD RIGHT-OF-WAY

### Recommendation

That the December 4, 2023, City Operations report CO01707, be received for information.

<b>Requested Action</b>	Information only		
<b>ConnectEdmonton's Guiding Principle</b>	<b>ConnectEdmonton Strategic Goals</b>		
<b>CONNECTED</b> This unifies our work to achieve our strategic goals.	<b>URBAN PLACES, REGIONAL PROSPERITY</b>		
<b>City Plan Values</b>	ACCESS		
<b>City Plan Big City Move(s)</b>	Rebuildable City	<b>Relationship to Council's Strategic Priorities</b>	Mobility Network
<b>Corporate Business Plan</b>	Serving Edmontonians		
<b>Council Policy, Program or Project Relationships</b>	<ul style="list-style-type: none"> <li>Bylaw 5590 - Traffic Bylaw</li> </ul>		
<b>Related Council Discussions</b>	<ul style="list-style-type: none"> <li>January 31, 2023, Motions Pending report Fine Increase for Bylaw 5590 - Traffic Bylaw, Road Right-of-Way</li> </ul>		

### Previous Council/Committee Action

At the January 31, 2023, City Council meeting, the following motion was passed:

That Administration provide a report on increasing the fine for Traffic Bylaw 5590 related offences, related to obstructions along road right-of-way being increased.

## **FINE INCREASES FOR BYLAW 5590 - TRAFFIC BYLAW - OBSTRUCTIONS ALONG THE ROAD RIGHT-OF-WAY**

### **Executive Summary**

- As part of maintaining a safe and efficient roadway network, Administration uses On-Street Construction and Maintenance permits to track and regulate construction and maintenance activities that obstruct the road right-of-way.
- Administration enforces permit requirements for road right-of-way obstructions through Bylaw 5590 - Traffic Bylaw. Fines for right-of-way obstructions begin at \$250, and can be doubled for repeat offences; however, Peace Officers resolve most complaints through the use of existing tools including education and/or warnings.
- Edmonton's fines are lower than the majority of municipalities that responded to a jurisdictional scan; however, other Cities have found that increased enforcement activities (such as inspections, warnings and tickets) and education are more effective than higher fines for reducing illegal obstructions.
- Administration will enhance the On-Street Construction and Maintenance permitting process and educational tools to improve compliance, and has identified potential opportunities to increase the effectiveness of Bylaw 5590.

### **REPORT**

The City operates and regulates Edmonton's road network to promote the efficient movement of people and goods while ensuring the safety of all users. This includes pedestrians, active transportation users, transit and vehicles moving through the network and those occupying or performing work on the road right-of-way, such as for construction and maintenance. The City establishes accountability for the safe use of road right-of-way during these activities through engineering, education and enforcement.

#### **On-Street Construction and Maintenance Permits**

The City of Edmonton requires that anyone performing construction and maintenance activities on the City road right-of-way obtain an On-Street Construction and Maintenance permit based on the scope of work, type of roadway and time of day. This permit allows work to be conducted on City road right-of-way, including roads, sidewalks and boulevards. Permit requirements, application resources and other information are available at [edmonton.ca/permits](http://edmonton.ca/permits).

In February 2019, Administration introduced a \$25 per day fee for all On-Street Construction and Maintenance permits to minimize the duration and size of road right-of-way obstructions for construction and maintenance projects. Since then, the average number of On-Street Construction and Maintenance permits issued annually has decreased by seven per cent as applicants are more likely to consolidate applications for similar worksites under one permit, and the average permit duration was reduced by 13 per cent (Attachment 1). As of September 18, 2023, Administration has issued 7,414 On-Street Construction and Maintenance permits. The average processing time for a permit is 6.5 days, and permits can also be extended and changed multiple times with no additional administrative fees for the applicant.

To ensure the smooth operation of construction and maintenance activities within the City's road right-of-way, City staff work with contractors on a daily basis to address potential concerns with

## **FINE INCREASES FOR BYLAW 5590 - TRAFFIC BYLAW - OBSTRUCTIONS ALONG THE ROAD RIGHT-OF-WAY**

temporary traffic control setups through regular inspections. Two days prior to the end date of a permit, an email notification is sent to the permit holder as a reminder that their temporary traffic control setup must be removed or the permit extended.

Administration also requires a Waste Bin, POD (an industry term that refers to portable storage containers) or SeaCan permit for the temporary placement of these structures on road right-of-way for a specific period of time. This is a subcategory within an On-Street Construction and Maintenance Permit, where there is no fee and no specified length of duration required. This can result in these structures occupying the road right-of-way for extended periods of time.

### **Bylaw Enforcement**

Administration manages and enforces road right-of-way obstructions through Bylaw 5590, which outlines several obstruction-related offences that address a variety of concerns and complaint types. The majority of obstruction complaints and enforcement actions taken relate to Section 66 (Obstruct Highway); however, not all of these obstructions may be related to on-street construction. Examples include extension cords, heavy machinery, waste bins, fencing, vehicles, vegetation and more.

City of Edmonton Peace Officers receive and respond to obstruction complaints through resident 311 inquiries, alerts from other City departments or by proactive inspection of obstruction sites identified during the course of their duties. Peace Officers prioritize roadway obstruction concerns, as they can present safety and accessibility concerns.

When responding to an unauthorized obstruction, Peace Officers will first educate the offender on the appropriate use of the road right-of-way and encourage them to comply with the necessary permits. If reasonable steps to address concerns and/or violations are not taken, Peace Officers may use formal enforcement, including warnings, tickets and *Municipal Government Act* orders to achieve compliance. From 2019 to 2022, Administration received an average of 217 complaints per year, and issued an average of 148 warnings and 41 tickets. In 2023, as of September 18, Administration has received 186 complaints, and issued 150 warnings and 29 tickets.

The fine for non-compliance is \$250 for a first offence and can be doubled for repeat offences. For serious offences, such as those that block infrastructure, create significant safety concerns or require repeated enforcement, a Peace Officer can also require the recipient to appear in Court. This level of escalation is rare and has only occurred once between 2019 and 2023. The Court can impose a fine of up to \$10,000, though significant fines are issued only in the presence of extraordinary circumstances.

### **Jurisdictional Scan**

Administration surveyed several Canadian municipalities to identify how obstructions are defined within bylaws and how non-compliance regarding roadway obstructions is managed. These findings are shown in Attachment 2 and key findings include:

## **FINE INCREASES FOR BYLAW 5590 - TRAFFIC BYLAW - OBSTRUCTIONS ALONG THE ROAD RIGHT-OF-WAY**

- Similarly to Edmonton, respondents use a combination of education and awareness, which is provided by inspection and enforcement teams to industry stakeholders and those found in violation of obstruction-related bylaws, along with issuing fines for non-compliance.
- The majority of fines issued by the responding municipalities range from \$100 to \$1,500.
- Almost all respondents reported that compliance improved with increased enforcement activities (such as inspections, warnings or tickets) or education.
- Montreal increased fine amounts to reduce unauthorized right-of-way obstructions, but reported that compliance remained roughly the same.

### **Next Steps: Opportunities to Increase Compliance**

Administration is exploring opportunities to increase compliance with Traffic Bylaw 5590 related to construction and maintenance activities on the road right-of-way. The focus of this work will be on enhancing program processes, improving education and supporting efficient enforcement, as these were found by other jurisdictions to be more effective in promoting compliance than raising fines alone. Administration will:

- Review the On-Street Construction and Maintenance Permit program to determine how the City can best deliver a transparent, effective programmed approach, including:
  - Options for service enhancements
  - Budget and resource requirements
- Enhance communications and education to improve stakeholder awareness and understanding of the permit process and rules for working on City road right-of-way, including
  - Updated educational materials for stakeholders
  - Proactive communications during the permit application process and duration of issued permits
- Consider updates to Bylaw 5590 based on the effectiveness of permit program improvements, including:
  - Clarity respecting construction and maintenance related obstructions
  - Increased enforcement capabilities for permit non-compliance
  - Adjusted fine schedules and amounts as deemed to be needed based on the review.

### **Budget/Financial Implications**

Increasing the fines for obstructions on road right-of-way may result in increased fine revenue; however, it is difficult to estimate the amount as it is dependent on the number of future violations.

Additional funding would be required to increase enforcement of road right-of-way violations. Administration will provide information on resource requirements and recommended service levels for all enforcement programs in CS02050 Edmonton Enforcement Staffing at Community and Public Service Committee on December 4, 2023.

Changes to the permit program may require an adjustment to the program budget. Administration will present options for service enhancements, including financial implications, as part of the program review.

## **FINE INCREASES FOR BYLAW 5590 - TRAFFIC BYLAW - OBSTRUCTIONS ALONG THE ROAD RIGHT-OF-WAY**

### **Legal Implications**

Section 7(1)(ii) of the *Municipal Government Act*, RSA 2000, c M-26 grants Council the authority to enforce bylaws by imposing a fine not exceeding \$10,000 or imprisonment for not more than one year, or both, for each offence. Sections 107(f) and (h) of the Traffic Bylaw allow Administration to issue permits with such terms and conditions as are deemed appropriate and establish the criteria to be met when issuing a permit, respectively.

### **Community Insight**

Administration regularly receives information and concerns about obstructions on the road right-of-way through 311 notifications and public inquiries. External stakeholders such as home building associations, utility providers and private businesses who apply for On-Street Construction and Maintenance permits will be engaged in early 2024 to provide feedback on the permitting process and opportunities for improvement.

### **GBA+**

Right-of-way obstructions on roads and sidewalks impact all user types, although some users may be impacted more severely than others. Administration's goal is to minimize all obstructions, and prevent illegal obstructions in the road right-of-way to ensure a safe and accessible mobility network for all users.

Obstructions of the road right-of-way, particularly when unexpected, can increase travel time and distance, disrupt transit routes and decrease user satisfaction and experience. They require users to find alternative safe routes, which may disproportionately impact network accessibility for different groups, such as persons with limited mobility (including seniors, persons with disabilities and caregivers using strollers) and persons with visual impairments, for example. To mitigate these impacts, Administration uses measures such as informational signage, route detours and infrastructure (eg. ramps, steps or protective fencing) which considers the needs of all user types. These measures will continue to be used and reviewed on an ongoing basis, alongside enforcement activities outlined above in order to minimize barriers to accessibility.

### **Attachments**

1. Road Right-of-Way Obstruction Permit and Enforcement Data
2. Jurisdictional Scan