

Rationale**Mark-Up of Proposed Text Amendment: Section 23**

Black Font = existing Zoning Bylaw text

Underline Italic Font = proposed addition to Zoning Bylaw

~~Strikethrough~~ = proposed deletion from Zoning Bylaw

~~23. Enforcement and Penalties~~**~~23.1 General~~**

- ~~1. The enforcement powers granted to the Development Officer under this Bylaw are in addition to any enforcement powers the City or any of its officers may have under the Municipal Government Act or any other applicable legislation. The Development Officer may exercise all such powers concurrently.~~
- ~~2. The Council of the City shall from time to time, taking into account social and economic factors including the resources available to it and the various demands made upon those resources by the residents of the City, allocate resources to the General Manager of Sustainable Development, who shall then determine the extent of enforcement made under this Bylaw so as to optimize use of those resources.~~

~~23.2 Offences~~

- ~~1. Any owner, lessee, tenant or occupant of land, a building, a structure or a Sign thereon, who, with respect to such land, building, structure:

 - ~~a. contravenes; or~~
 - ~~b. causes, allows or permits a contravention of any provision of this Bylaw; or~~
 - ~~c. commits an offence.~~~~
- ~~2. It is an offence for any person:

 - ~~a. to construct a building or structure;~~
 - ~~b. to make an addition or alteration thereto;~~
 - ~~c. to commence a Use or change of intensity of Use; or~~
 - ~~d. to place a Sign on land;~~
 for which a Development Permit is required but has not been issued or is not valid under this Bylaw.~~
- ~~3. If the corrective measures described in a Violation Notice issued pursuant to subsection 23.3 are not completed within the time specified by the Violation Notice, the person to whom the Violation Notice was issued is guilty of an offence and shall pay the penalty amount specified in Schedule 23A.~~
- ~~4. If development continues after a Permit has been cancelled or suspended, the person to whom the Permit was issued or the person continuing the development is guilty of an offence and shall pay the penalty amount specified in Schedule 23A.~~

For this Mark-Up, the original section 23 has been completely deleted and the section completely rewritten with all amendments together

- ~~5. It is an offence to display a Temporary Sign without a valid Development Permit. It is an offence for a Temporary Sign to not have the Sign ownership displayed in a visible location on the Sign. It is an offence to deface, obscure or otherwise render the ownership identification illegible.~~
- ~~6. It is an offence to display a Temporary Sign without a development permit approval tag issued by the City of Edmonton.~~
- ~~7. It is an offence to have a Sign in an abandoned state.~~
- ~~8. It is an offence to commence any construction which requires a Development Permit in a residential, agricultural, institutional, commercial or industrial Zone without a valid Development Permit.~~

23.3 Enforcement

- ~~1. Once the City has found a violation of this Bylaw, the City may notify either the owner of the land, the building or the structure, the person in possession of the land, building or structure, the person responsible for the violation or any or all of them, of the contravention of this Bylaw, by

 - ~~a. delivering a Violation Notice delivered either in person or by ordinary mail:

 - ~~i. to the owner of the land, building or structure, at the address listed on the tax roll for the land in question; or~~
 - ~~ii. to the owner of the Sign, at a location where the owner carries on business; or~~~~
 - ~~b. in the case of Temporary Signs, verbal notification, to the Sign owner or by delivering a Violation Notice in person to the Sign owner or by ordinary mail or by facsimile to an address where the Sign owner carries on business.~~~~
- ~~2. Such notice shall state the following:

 - ~~a. nature of the violation of this Bylaw;~~
 - ~~b. corrective measures required to comply with this Bylaw; and~~
 - ~~c. time within which such corrective measures must be performed.~~~~
- ~~3. The appearance of the name of an individual, organization, corporation or ownership on a Sign is prima facie proof that the individual, organization, corporation or owner named thereon caused, suffered or permitted the Sign to be placed on land, and is responsible for any contravention of the provisions of this Bylaw.~~
- ~~4. The City is not required to issue a Violation Notice before commencing any other enforcement action under the Municipal Government Act, or this Bylaw, or at all.~~

23.4 Order and Right of Entry

	<p>1. Pursuant to the Municipal Government Act, the Development Officer may issue, to any or all of the following:</p> <ul style="list-style-type: none"> a. the person in possession of the land, building or structure; and b. the person responsible for the contravention, an order under the Act. <p>2. Where a person fails or refuses to comply with the Order, the City may take such action as is necessary to carry out the order.</p> <p>3. The costs and expenses incurred in carrying out an Order shall be placed on the tax roll. The amount so placed shall be deemed for all purposes to be a tax imposed pursuant to the Municipal Government Act, from the date it was added to the tax roll and forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.</p> <p>4. After notice to the owner or occupant in accordance to the Municipal Government Act, a Development Officer, or Bylaw Enforcement Officer, may enter a property to conduct any inspection to determine compliance with this Bylaw.</p> <p>5. A person shall not prevent or obstruct a Development Officer, or Bylaw Enforcement Officer, from carrying out any official duty under this Bylaw or the Act.</p>	
23.	Enforcement and Penalties	Start of the proposed new section 23.
23.1	General	
	<p>1. The enforcement powers granted to the Development Officer under this Bylaw are in addition to any enforcement powers the City or any of its officers may have under the Municipal Government Act or any other applicable legislation. The Development Officer may exercise all such powers concurrently.</p>	No change
	<p>2. The Council of the City shall from time to time, taking into account social and economic factors including the resources available to it and the various demands made upon those resources by the residents of the City, allocate resources to the General Manager of Sustainable Development, who shall then determine the extent of enforcement made under this Bylaw so as to optimize use of those resources.</p>	No change
23.2	Offences	No change
	<p>1. Any owner, lessee, tenant or occupant of land, a building, a structure or a Sign thereon, who, with respect to such land, building, structure:</p> <ul style="list-style-type: none"> b. contravenes; or c. causes, allows or permits a contravention of any provision of this Bylaw; <p>commits an offence.</p>	

2. It is an offence for any person:
- a. to construct a building or structure;
 - b. to make an addition or alteration thereto;
 - d. to commence a Use or change of intensity of Use; or
 - d. to place a Sign on land;
- for which a Development Permit is required but has not been approved or is not valid under this Bylaw.

3. It is an offence for any person to undertake development in contravention of an approved Development Permit, including any conditions of approval.

The language of subsection 23.2(3) has been simplified

4. It is an offence for any person not to take the corrective measures specified in a Violation Notice issued pursuant to subsection 23.3.

The language of subsection 23.2(4) has been simplified

5. It is an offence for any person to continue to develop after a Development Permit has been cancelled or suspended.

The language of subsection 23.2(5) has been simplified

6. Notwithstanding section 23.2(2), it is an offence to undertake development of a single Storey Accessory Building without a valid and approved Development Permit when a Development Permit is required.

Subsections 23.2(6) to 23.2(10) are new specific offences, dealing with offences that are typically related to residential developments – they include sheds, fences, decks, hardsurfacing in ways that are prohibited, and objects that are prohibited or restricted in residential zones

7. Notwithstanding section 23.2(2), it is an offence to construct a fence, wall or gate exceeding the maximum Height prescribed in this Bylaw without a valid and approved Development Permit when a Development Permit is required.

8. Notwithstanding section 23.2(2), it is an offence to construct a Platform Structure without a valid and approved Development Permit when a Development Permit is required.

9. Notwithstanding section 23.2(2), it is an offence to keep an object in a residential zone that is prohibited or restricted under Section 45 of this Bylaw without a valid and approved Development Permit when a Development Permit is required.

10. Notwithstanding section 23.2(2), it is an offence to hardsurface an area within a Front Yard or a flanking Side Yard in a way that contravenes subsection 54.1(4) or subsection 54.1(5) of this Bylaw without a valid and approved Development Permit when a Development Permit is required.

Section 23.2(11) is a new offence that works with the new section 20.2 requirement to display a development permit notification sign

11. It is an offence not to display a development permit

notification sign when a development permit notification sign is required, whether or not listed as a Development Permit condition.

Subsections 23.2(12) to 23.2(15) are offences related to Temporary Signs

12. Notwithstanding section 23.2(2), it is an offence to display a Temporary Sign without a valid and approved Development Permit when a Development Permit is required.

13. It is an offence not to display the Sign ownership in a visible location on a Temporary Sign. It is an offence to deface, obscure or otherwise render the ownership identification illegible.

No change

14. It is an offence to display a Temporary Sign without a development permit approval tag issued by the City of Edmonton.

No change

15. It is an offence to have a Sign in an abandoned state.

No change

23.3 Enforcement

1. When the City reasonably believes that an offence has been committed or is occurring, the City may notify either the owner of the land, the building or the structure, the person in possession of the land, building or structure, the person responsible for the violation, including the applicant for the Development Permit, or any or all of them, of the contravention of this Bylaw, by:

23.3(1) now allows for enforcement to be initiated when the City “reasonably believes” an offence has been committed, changed from “has found a violation”

a. delivering a Violation Notice delivered either in person, by facsimile or by ordinary mail:

23.3(1) now allows for enforcement actions to be taken against the “person in possession of the land”

- i. to the owner of the land, building or structure, or the person in possession of the land, building or structure, at the address listed on the tax roll for the land in question; or
- ii. to the applicant for the Development Permit, at the applicant's address as listed on the Development Permit application; or
- iii. to the owner of the Sign, at a location where the owner carries on business.

23.3(1)(a)(ii) adds that a Violation Notice can be served on an applicant for a Development Permit

b. notwithstanding the preceding subsection, for Temporary Sign offences, the Violation Notice shall be deemed to be delivered when the City provides verbal notification of the Violation Notice to the owner of the Temporary Sign.

No change

2. The Violation Notice shall state the following:

- a. the nature of the offence;
- b. the corrective measures required to remedy the offence and comply with this Bylaw;

- c. the time within which such corrective measures must be performed; and
- d. any penalty for not complying with the Violation Notice, if the corrective measures are not completed within the time specified.

23.3(2)(d) creates the penalty associated with failure to comply with a Violation Notice

- 3. The appearance of the name of any person, organization, corporation or other ownership on a Sign is prima facie proof that the person, organization, corporation or owner named thereon caused or permitted the Sign to be placed on land, and the person, organization, corporation or owner is responsible for any contravention of the provisions of this Bylaw and the offence.

The word “suffered” has been removed from 23.3(3) as the offence is sufficiently described by “caused or permitted...”

- 4. The City is not required to issue a Violation Notice before commencing any other enforcement action under the Municipal Government Act, or this Bylaw, or at all.

23.4 Penalties

- 1. A person who is guilty of an offence shall pay the applicable penalty amount specified in Section 23A.
- 2. Where there is a minimum penalty listed for an offence in Section 23A, that amount is the minimum penalty for that offence.
- 3. A subsequent offence means an offence committed by a person after that person has already been convicted of the same offence or has voluntarily paid a fine for the same offence.

23.4 Penalties is a new subsection that contemplates penalties for first and subsequent offences, which are now listed in the amended section 23A

23.5 Order and Right of Entry

- 1. Pursuant to the Municipal Government Act, the Development Officer may issue, to any or all of the following:
 - a. the person in possession of the land, building or structure; and
 - b. the person responsible for the contravention, an order under the Act.
- 2. Where a person fails or refuses to comply with the Order, the City may take such action as is necessary to carry out the order.
- 3. The costs and expenses incurred in carrying out an Order shall be placed on the tax roll. The amount so placed shall be deemed for all purposes to be a tax imposed pursuant to the Municipal Government Act, from the date it was added to the tax roll and forms a special lien against the parcel of land in favour of

No change

the municipality from the date it was added to the tax roll.

4. After notice to the owner or occupant in accordance to the Municipal Government Act, a Development Officer, or Bylaw Enforcement Officer, may enter a property to conduct any inspection to determine compliance with this Bylaw.
5. A person shall not prevent or obstruct a Development Officer, or Bylaw Enforcement Officer, from carrying out any official duty under this Bylaw or the Act.