

# Graffiti Fines and Resolutions - Bylaw Amendment Options

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## Recommendation

That Community and Public Services Committee recommend to City Council:

That Administration prepare bylaw amendments to create an offence for placing or causing the placement of graffiti on private and public property without permission, including a fine for \$1,000, and return to Committee.

## Previous Council/Committee Action

At the August 21, 2019, Community and Public Services Committee meeting the following motion was passed:

That Administration consider options for bylaw amendments, related to people that commit graffiti, including increased fines and other alternative resolutions, and report back to Committee.

## Executive Summary

Administration is recommending the creation of a new offence within Bylaw 14600 - Community Standards Bylaw and Bylaw 14614 - Public Places Bylaw that will address the placing of graffiti on private or public property. The prescribed fine amount is in line with other municipalities and consistent with other penalties set out in the Community Standards Bylaw and Public Places Bylaw. In 2019, there was a 48 percent increase in graffiti bylaw complaints and a 32 percent increase in locations from 2015 to 2019. In 2020, Administration worked to enhance the existing graffiti program to reduce the current trend in graffiti vandalism.

## Report

Administration conducts regular audits to identify the volume and location of graffiti vandalism in Edmonton. The most recent audit shows graffiti is on the rise across the city. In 2019, graffiti-related bylaw complaints increased by 48 percent over the previous year. The majority of graffiti was characterized as the marker/plain type, not the artistic type. From 2015 to 2019, the number of locations with graffiti vandalism has increased by 32 percent.

## Graffiti Enforcement in Edmonton

The Edmonton Police Service responds to graffiti vandalism while in progress. After an offence has been committed, Administration responds to graffiti complaints and ensures its removal from private and public property. In a graffiti removal situation, Administration considers penalty options for the property owners as a last resort and relies heavily on voluntary compliance. Where property owners are unwilling to cooperate or fail to remove graffiti in a timely fashion, a \$250 fine may be considered.

To support property owners with graffiti removal, Administration offers the Professional Graffiti Cleaning Program. The program offers an opportunity to access graffiti cleaning assistance worth up to \$750 for each location in a calendar year. Since 2016, Administration has approved 1,591 applications for the program, with an eight percent increase in applications in 2019.

### Environmental Scan

Administration conducted an environmental scan of four large municipalities in Canada to determine if they had bylaws to specifically address graffiti vandals (Attachment 1). The four municipalities all have bylaws focused on individuals who place graffiti on properties without the owner's permission. The range of fines varies from \$500 to \$10,000.

### Bylaw Options

The *Municipal Government Act* allows municipalities to create offences for breaches of municipal bylaws and set fines for those offences, not exceeding \$10,000. Bylaw 14600 - Community Standards Bylaw only regulates graffiti by requiring property owners to remove graffiti in a timely manner. However, there is no bylaw offence for anyone who creates graffiti without permission.

Administration reviewed information from the environmental scan and developed three options to create a new bylaw offence for those creating graffiti without permission. To achieve this, the Community Standards Bylaw and Public Places Bylaw will need to be amended to add an offence for a person placing or applying graffiti on private and public property, respectively. The following fine options were considered: \$1,000, \$2,500, or \$5,000.

Fines are generally set based on the principle that any fine amount should be proportionate to the severity of the offence and act as a deterrent or sanction. In some cases, low fine amounts can be seen to be insufficient to act as deterrents or be a suitable punishment. Conversely, high fine amounts may cause reluctance to issue tickets or convict violators, create increased court challenges, or perception of heavy-handedness. Administration is recommending a fine of \$1,000 because it is consistent with other jurisdictions and also with other fine amounts set out in the Community Standards Bylaw and Public Places Bylaw.

### Prosecutorial Discretion

The City's Municipal Prosecutor is responsible for all prosecutions of bylaw offences and must consider the public interest principle that a prosecution should only move forward where it is in the public interest. The scope of this approach can consider other resolution options on a case-by-case basis. For example, if a person is ticketed for applying graffiti and subsequently makes arrangements with the affected property owner to remedy the damage, the prosecutor can consider the public interest of proceeding with the ticket. If a prosecutor receives a request to review a ticket, either directly from the recipient or from a parent, social worker, or other support on their behalf, the prosecutor has the opportunity to exercise discretion in every case.

### Enhancing Edmonton's Graffiti Program

Administration is considering a number of improvements to the existing graffiti program.

#### *Year-round Graffiti Removal*

Cold weather previously restricted the ability to remove graffiti. Administration has approved a new contractor for the Professional Graffiti Cleaning Program that uses new cleaning methods and new technology for removing graffiti in cold weather. This will result in graffiti removed sooner reducing how long it is visible to the public.

#### *Initiatives for Highly Impacted Areas*

Administration has identified ten communities that will receive increased support because of the significantly higher level of graffiti. In addition, increased partnerships with the business improvement areas will be explored to learn about existing business challenges and chronic tagging and to find more business-friendly solutions. The Community Mural Matching Grant will also continue to support non-profit, community agencies in the development of murals in problematic areas.

#### *Improved Information Sharing*

Administration is reviewing the intake systems, workflows and data collection processes related to graffiti complaints. The review will lead to an intelligence-led deployment model and provide support for any changes to current programming. Improved information sharing and a streamlined complaint intake system will result in process improvements and increase overall program effectiveness.

### **Budget/Financial Implications**

Fine revenues arising from the proposed bylaw amendment are expected to be insignificant as the main focus is to deter graffiti vandalism from occurring in the first place. Administration will monitor actual revenues and adjust future budgets, as appropriate, if fines arising from the proposed bylaw amendment become material.

## Public Engagement

No public engagement was undertaken for this report.

## Corporate Outcomes and Performance Management

Corporate Outcome: Edmonton is attractive and compact.			
Outcome:	Measure	Result(s)	Target(s)
Edmonton programs and services promote a clean, graffiti-free environment.	Number of graffiti vandalism tags according to Graffiti Audit report	2019: 2,408 2018: No audit 2017: 1,947 2016: 1,575	10 percent reduction in graffiti tags
	Number of applications to use the Professional Cleaning Program	2019: 499 2018: 462 2017: 366 2016: 264	10 percent increase in applications

## Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
<b>If recommendation is approved</b>						
Legal / Regulatory	Fines are not collectable from offenders	4 Likely	2 Moderate	8 Medium	Accept the risk	
Legal / Regulatory	Fines are not a successful disincentive and do not reduce graffiti occurrences	3 Possible	2 Moderate	6 Low	Accept the risk	
<b>If recommendation is not approved</b>						
Public Perception	Edmonton's bylaw only targets the victims of graffiti and not the perpetrators	4 Likely	2 Moderate	8 Medium	Professional Graffiti Cleaning Program	

## Attachments

1. Jurisdictional Review of Graffiti Penalty Fines

**Others Reviewing this Report**

- M. Persson, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- S. McCabe, Deputy City Manager, Urban Form and Corporate Strategic Development
- C. Owen, Deputy City Manager, Communications and Engagement
- B. Andriachuk, City Solicitor