



Staff Report

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Report To:	General Government Committee	
Date of Meeting:	September 27, 2021	Report Number: LGS-025-21
Submitted By:	Rob Maciver, Director of Legislative Services	
Reviewed By:	Andrew C. Allison, CAO	Resolution#:
File Number:	L1000-26	By-law Number: 2014-022
Report Subject:	Increased Penalties for Road Occupancy Violations	

Recommendations:

1. That Report LGS-025-21 be received;
2. That the By-laws attached to Report LGS-025-21, as Attachment 1 and 2, be approved; and
3. That Staff implement the additional measures described in Report LGS-025-21.

Report Overview

This Report has been prepared in response to concerns raised at recent Council meetings with respect to unauthorized construction materials and equipment placed on Municipal roads.

1. Background

- 1.1 Nuisance and disturbance associated with obstructions placed in the Municipal road allowance has been noted at several recent Council meetings. Some Councillors have expressed specific concerns about construction and landscaping materials and equipment placed on the road surface in residential neighbourhoods.
- 1.2 The Road Occupancy By-law 2014-022 provides that a person may apply for a road occupancy permit for the temporary placement of materials or equipment on a road surface. Applicants for a road occupancy permit are required to submit proof of liability insurance and other information to the Director of Public Works. Depending on the specific circumstances, the applicant may also be required to pay a road damage deposit and/or a permit fee.
- 1.3 It is prohibited under the Road Occupancy By-law to place construction materials in the road allowance unless a road occupancy permit is obtained.
- 1.4 By-law enforcement staff have encountered similar nuisances associated with material placed in the boulevard portion of the road allowance. Placement of materials in the boulevard is regulated under the Boulevard By-law 2013-066.

2. Enforcement Issues

- 2.1 By-law officers can undertake enforcement action for any unauthorized materials placed in the road allowance pursuant to either one of the above-mentioned by-laws. Some of the challenges to effective enforcement are the transient nature of the activity, difficulties ascertaining the persons responsible for the infraction, and a cumbersome administrative process to impose a fine. It also requires coordination with the Public Works Department to determine whether the placement of materials in the road allowance has been authorized by a road occupancy permit.
- 2.2 Staff are proposing a new strategy to address problems of unauthorized road occupancy to create a more effective deterrent to this activity.

- 2.3 Central to the proposed strategy is the establishment of set fines to simplify the process to impose monetary penalties for infractions. The proposed set fine offences and amounts are included in the attachments to this Report. The set fine amounts have been carefully selected to balance an appropriate level of deterrence with the likelihood of approval by the Ministry of the Attorney General.
- 2.4 Set fines are an effective addition to the enforcement repertoire, as they provide an additional deterrent to violations, and they simplify the administration of monetary fines. The Legislative Services Department has made it an objective to create a schedule of set fines approved for all regulatory by-laws where it is believed it would improve the effectiveness of enforcement. Recent examples of new or updated set fines include the Clean and Clear By-law 2019-047, the Vehicles-for-Hire (Taxi) By-law 2019-069, the On-Farm Special Events By-law (2021-049), and amendments to the Traffic By-law (2014-059).
- 2.5 To implement the proposed strategy, it is recommended that Council approve the set fine schedules and by-law amendments attached to this Report. Following Council's enactment of the by-law amendments, they will be forwarded to the Ministry of the Attorney General for approval.
- 2.6 Provided the set fines receive approval, the Manager of Municipal Law Enforcement will provide training and instruction to Municipal Law Enforcement Officers on the use of set fines and will reinforce what to look for when on patrol. It will be emphasized to officers that they are encouraged to investigate if they observe an obstruction in the roadway that they suspect may be unauthorized. This active enforcement will supplement investigations taken in response to complaints received from the public.
- 2.7 Staff are also in the process of developing an enhanced process so that Enforcement Officers can make a timely determination as to whether a road occupancy permit has been granted for any obstruction that is encountered in the roadway.
- 2.8 As an additional measure, Staff have compiled a provisional list of Clarington businesses (notably construction, landscaping, and pool installation businesses) to be notified of the by-law changes. Although not a comprehensive list, this communication will get the message circulating that the Municipality will be taking a stricter approach, and to remind these businesses of the need for a road occupancy permit.

3. Concurrence

This report has been reviewed by the Director of Public Works who concurs with the recommendations.

4. Conclusion

It is respectfully recommended that the By-law amendments found at Attachment 1 and 2 to this Report be enacted.

Staff Contact: Robert Maciver, Director of Legislative Services/Municipal Solicitor, 905-623-3379 ext. 2013 or rmaciver@clarington.net.

Attachments:

Attachment 1 – Amendment to Road Occupancy By-law 2014-022

Attachment 2 – Amendment to Boulevard By-law 2013-066

Interested Parties:

There are no interested parties to be notified of Council's decision.