



SUBJECT: Building and by-law staff direction and staffing updates

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Building and By-law Department

Report Number: BB-05-22

Wards Affected: All

File Numbers: 155-03-10

Date to Committee: July 5, 2022

Date to Council: July 12, 2022

Recommendation:

Receive and file building and by-law department report BB-05-22 which outlines the status of outstanding staff directions and ongoing workplan items related to by-law enforcement; and

Remove staff direction SD-05-22 (CPRM-01-22), by-law to support police in reducing vehicular noise in Burlington from the outstanding business list.

PURPOSE:

To update Council on the status of outstanding staff directions, ongoing workplan items and plan for emerging issues.

Background and Discussion:

At the Council workshop of October 18, 2021 (CWC-10-21) staff outlined some of the challenges and opportunities related to the current by-law operation including outdated by-laws and insufficient staffing levels. In addition to delays brought on by the COVID-19 pandemic, the by-law section currently has a staffing shortage (down 50% including Animal Control Officers) which is creating a delayed response to Council directions and emerging issues.

A medium-term plan to resource and consolidate by-law services in the City of Burlington will be presented to Council as part of the 2023 Budget process (discussed

further under SD-05-19) but in the short-term, the following measures have been undertaken to improve efficiency and capacity as follows:

- Active recruitment for vacant positions. Two by-law officers will be starting on July 4, 2022 with active recruitment to continue until all positions are filled.
- Conversion of one temporary by-law officer position to temporary by-law policy coordinator. Vacancies in the by-law area have created an opportunity to convert a position that will be solely focused on the research, public consultation and by-law review/updates needed to address current deficiencies and emerging by-law issues. While this further reduces by-law officer capacity, continuing to enforce by-laws that are outdated is not efficient or cost effective. Focusing on correcting the administrative tools will result in better enforcement long term.
- Realignment of duties to improve capacity in Licensing. On October 19, 2021, Council approved additional 'fee funded' positions for the Building Section (PL-46-21). The intent is to reassign building duties currently performed by staff in the administrative area to provide capacity for emerging licensing issues. Until the vacancies are filled, staff will be pausing the issuance of Routine Amendment information. While excellent customer service, this is not a legislated service and currently utilizes the equivalent of one full-time equivalent (1 FTE) that could be better utilized in the revenue generating Licensing area.
- Integration into the Customer Relationship Management System. Integration will help streamline customer response. Project is active and ongoing with Implementation expected Q2 2023.
- Preparation for implementation into the Administrative Monetary Penalty System (AMPS) As per report BB-12-2022 staff have been developing options to implement AMPS for 'non-parking' by-laws. If BB-12-2022 is approved the project should commence in September 2022 for implementation in Q1 2023.

Detailed information on outstanding items are listed below:

OUTSTANDING STAFF DIRECTIONS

SD-05-19 Consolidation of By-law Services (Q1 Jan 2023) - Staff will report back on a recommended staffing structure for by-law enforcement as part of the 2023 Budget. The report is targeted for January 2023 and will include a summary of findings from the

consultant review conducted using funds received from the Province's Audit and Accountability Fund II.

SD-26-21 (CPRM-06-21) By-law Updates to Improve Compliance related to Shipping Containers and Derelict Vehicles (Q2 2023)- Some work has been done to aid in enforcement related to derelict vehicles on private property with the recent updates to Lot Maintenance By-law 49-2022 (approved June 21, 2022) but more time is needed to address the issue of shipping containers – mainly due to staffing resource issues. Staff estimate a report back in Q2 2023.

Shipping containers have been difficult to enforce when they do not meet the definition of 'building' in the *Ontario Building Code Act*. This has been exasperated by the April 2022 update to the *Act* which increases the size of these 'shed' structures allowed without a permit (increased to 15 square metres from 10). Staff have been utilizing City of Burlington Zoning By-law 2020 where applicable but the underlining authority, *Planning Act*, does not allow staff to remedy the situation should a homeowner refuse to comply. Additional research is required to determine municipal authority to implement a separate shipping container by-law under the *Municipal Act* which requires additional time and consultation.

SD-05-22 (CPRM-01-22) By-law to Support Police in Reducing Vehicular Noise in Burlington (remove from list). Staff have been working with the Halton Regional Police Service (HRPS) to determine what, if any, changes could be made to the City of Burlington Nuisance and Noise By-law 19-2003 to aid in enforcement of noise caused by moving vehicles.

The main request was to provide an option to charge vehicle owners for excessive vehicle noise rather than the person operating the vehicle. Having the ability to charge a vehicle owner would reduce the need for police to stop the vehicle as charges could be laid using licence plate information (similar to a parking ticket). This would allow by-law officers to issue tickets for moving vehicles reducing strain on HRPS (by-law officers do not have legal authority to 'pull over' a vehicle). This request is not possible at this time as the legal authority on moving violations is set by the Province, not at the municipal level.

It was determined that there are already sufficient items in Nuisance and Noise By-law 19-2003 to aid in enforcement of vehicle noise on private property (e.g. in parking lots).

A comprehensive review of the by-law is high on the priority list and staff will continue to look for options that could aid in enforcement of vehicle noise and will update accordingly. As there is no action to be taken at this time that can improve enforcement of vehicle noise violations, it is recommended that outstanding staff direction SD-05-22 be removed from the outstanding business list.

Licensing of Short-Term Accommodation (Further Discussion Jan 2023) - At its meeting of October 28, 2019, Council directed staff to report back in Q2 2020 with an option to licence short-term accommodations (e.g. Airbnb, Bed & Breakfast, Boarding/Lodging Homes). With the emergence of COVID in March 2020, this project was put on hold.

During the review of By-law Services (as a result of SD-05-19), it has become apparent that there are insufficient staffing levels in the Licensing area to operate a short-term rental licensing scheme even if a by-law were created. A proposed option to remedy this will be included in the January 2023 report as part of the budget process.

As indicated, staff will be realigning workload and pausing Routine Amendment requests to create capacity in the Licensing area in the short-term.

EMERGING ISSUES

In addition to the current workplan and outstanding staff directions, there are emerging issues that are being taken into consideration as part of the by-law structure review and future work plan preparation as follows:

- **Private Pool Rentals** – The rental of private pools has become an emerging issue as discussed at the meeting of Halton Regional Council of June 15, 2022 (Report MO-08-2022). As noted in the report, staff in the regional municipalities (including Burlington) are utilizing existing by-laws (namely zoning) to enforce illegal pool rentals in conjunction with Halton Region Public Health who will enforce using the *Health Protection and Promotion Act (HPPA)*.
Staff will be focusing on education for the 2022 pool season as it apparent that most homeowners are unaware that these rentals are illegal. Options to add this item to existing by-laws and the future AMPS systems are being considered for 2023.
- **Vacant Building Licensing/permit** – Implementing a vacant building licensing/permit system has become a popular option for municipalities as it provides a method to proactively prevent deterioration of properties and discourages loss of need housing. By-law staff are supportive of this type of initiative as it will aid in proactive enforcement and will include this on the by-law policy coordinator workplan with initial report expected Q2 2023.
- **Encroachment By-law** – Encroachments are becoming more common as the City intensifies causing sight line, maintenance and health and safety issues.

Staff believe a separate encroachment by-law is needed to properly address these issues. The converted temporary by-law policy coordinator will be tasked with researching options for discussion with our Legal Department for potential implementation in 2024.

Financial Matters:

Not Applicable.

Climate Implications

Not Applicable.

Engagement Matters:

Not Applicable.

Conclusion:

While the City's By-law Section has experienced challenges over the last two years, staff are committed to adapting priorities to ensure the health and safety of the community.

Respectfully submitted,

Kerry Davren

Manager of By-law

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Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.