

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): ALL

TITLE: ROAD ALLOWANCE AND NUISANCE BY-LAWS

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

As the City continues to grow and develop, so too does the number of people using the City's public spaces, such as City roads, boulevards, sidewalks, laneways, parking lots, buildings and other lands. By-law and Compliance, Licensing and Permit Services (BCLPS) staff recommend expanding the Nuisance By-law, as well as creating another by-law to govern other activities within the City's road allowance, the "Road Allowance By-law". The intent is to provide a comprehensive regulation for the City's road allowance, including prohibition of certain activities, requirements for permits, and provisions to help mitigate safety concerns and nuisances.

Report Highlights

- This report seeks to update the Nuisance By-law to provide greater clarity on prohibited behaviour on public spaces, as well as establish a new by-law, the Road Allowance By-law, with respect to activities allowed within the Road Allowance.
- The proposed regulations are intended to contribute to the health, safety and wellbeing of the City in public spaces.

Recommendations

1. THAT Council authorize the creation of a Road Allowance By-law and the complementary by-law amendments to the Nuisance By-law, as discussed in this report and Attachment 1, in a form satisfactory to the Legal Services Department.

Background

In line with the Council-approved By-law Strategy, staff have reviewed several by-laws which address activities allowed on public roads, boulevards, sidewalks, laneways, and the exterior lands around private property, which are public land. Through consultation and research, staff have also identified several other important areas that are not currently covered by municipal regulation, which staff seek to address in this report. Staff are proposing creation of a new by-law, the “Road Allowance By-law”, to create a central, easy-to-navigate regulation to govern activities on public roads.

Staff are also recommending aligning City regulations with the Province of Ontario’s *Safe Streets Act*, 1999, S.O. 1999, c. 8 (“*Safe Streets Act*”), which Enforcement Services are sometimes called upon to enforce, incorporating provisions into the current Nuisance By-law.

Current regulations which address activities of public property include:

- the Parking By-law;
- the Encroachment By-law;
- the Idling By-law;
- the Newspaper Box By-law;
- the Nuisance By-law;
- the Road Occupancy By-law;
- the Roadside Sales By-law;
- the Long Grass and Weeds By-law;
- the Snow Clearing By-law; and
- the Traffic By-law.

In reviewing these by-laws, staff have identified some gaps in regulation, including:

- regulation of the full range of construction activities that occur on the road allowance, including preparation and cleanup and use of bins;
- activities that could be prohibited to contribute to a healthy, safe and nuisance-free community, such as:
 - sale of tickets;
 - street performances;
 - promoting businesses or events, such as, but not limited to, handing out flyers;
 - damaging, destroying, obstructing, or other dirtying of the road allowance;
 - climbing on public infrastructure;
 - lodging;

- locking of bicycles, vehicles or other objects to public infrastructure that is not intended for that purpose;
- temporary, decorative banners;
- use of fire;
- retail sales;
- the filling in of ditches, other infrastructure or areas which facilitate drainage and help to prevent flooding;
- placing materials on the Road Allowance that may hinder City maintenance, such as snow plowing and garbage collection, and/or access to City utilities or other infrastructure, such as sprinklers, landscaping, sports equipment or furniture;
- placing materials on the Road Allowance that may damage or hinder the health and growth of City trees, such as landscaping; and
- general prohibitions against activities which compromise health and safety, or contravene any other City or Region by-laws.

Road-related issues

To identify what the by-law should address, staff reviewed complaints over a five-year period, from 2016 to 2021, as well as input from front-line staff who receive and investigate complaints; based on this staff estimate there are likely at least 500 complaints per year related to the road allowance.

Front-line staff have provided insight on the nature of some of these complaints, as well as suggestions on how to address them:

- ***Bins on the road:*** During home renovations, staff have reported seeing more and more use of large disposal bins driveways and roads. With newer homes being built with smaller or no driveway space, staff anticipate bin use will continue to be common. Parking regulations allow persons to park on the street during construction for up to 30 days in one year, such as if they are using a bin on their driveway, however the City does not currently have regulations for bin placement on to road, or corresponding regulations with respect to required safety measures, such as lighting, signage and barriers. Staff have noted that bins which are improperly marked can create serious safety hazards for motorists, particular in low light, and as well can create traffic disruptions if poorly placed.
- ***Construction and maintenance:*** While the City currently requires “Road Cut” permits for activities in which the road is “cut” or opened such as for utility maintenance, there are a number of construction, pre-construction and post-construction activities which require use of public space and are not addressed by the permit. Examples include preparatory activities such as the mixing of construction materials and creation of scaffolding, or and cleanup activities.

- **Roadside sales:** The City has a Roadside Sales By-law, enacted in 1998, which allows people to sell various food items on the road allowance, such as dairy from a non-motorized vehicle (e.g., an ice cream cart), food and beverages from a licensed vehicle, or produce. These regulations are redundant with the Business Licensing By-law’s regulation of “refreshment vehicles”, which may be confusing for residents and businesses.
- **Blocking drainage:** Staff have noted that in agricultural areas, some property owners have filled in ditches bordering their property, which can impede or block drainage, and contribute to flooding. Staff have also noted that some property owners have modified their culverts, the partially underground pipes used to enable drainage into storm sewers, ditches or other drainage infrastructure, which can have the same effect with respect to increasing the probability of flooding.
- **Hindering city maintenance activities:** Staff have experienced challenges in providing street maintenance, such as snow plowing and garbage collection, due to residents leaving items on the road allowance, such as sports equipment (e.g. basketball nets), as well as installing landscaping, sprinklers or other items on the road allowance adjoining their properties. Staff have noted instances where maintenance has been prevented, or in which City equipment has been damaged or has caused damage.
- **Damaging trees:** City staff have noted that some residents have installed landscaping around City trees on the boulevards in front of their homes, such as brick frames. While aesthetically pleasing, some landscaping can restrict tree growth, cause damage, or become damaged over time. Such landscaping can also make it difficult to access infrastructure buried within the City’s right of way.
- **E-scooters and e-bikes:** The City continues to receive complaints about persons riding their e-scooters and e-bikes on sidewalks; at present the Traffic By-law prohibits this; however, this By-law is generally enforced by York Regional Police, not City municipal enforcement officers. Staff recommend adding this prohibition to the Road Allowance By-law to align regulations.

Nuisance-related changes over the last few decades

The current Nuisance By-law was enacted 23 years ago; since then, the City has grown in population and become increasingly urban, prompting a greater number of requests, from both the public and in collaboration with YRP, to respond to various types of nuisance. In addition, the provincial *Safe Streets Act*, which addresses similar areas of concern, has also been updated to provide more specific examples of prohibited activities and behaviours.

Staff have noted that in recent years Enforcement Services have been increasingly asked to respond to persons walking and standing on public roads, such as on the center median, panhandling. Such behaviour can contribute to dangerous conditions,

both for the people soliciting, who may put themselves at risk of being struck by a vehicle, and for motorists trying to avert such individuals.

Enforcement options to address nuisance

At present, if someone is found to be committing a nuisance, an officer can provide direction to cease the behaviour, or issue a provincial fine. In line with the request from the Regional Municipality of York, municipalities have been designating more by-laws under their administrative monetary penalties programs, which provide a more efficient and simpler dispute process. This means that officers can issue penalties more easily and offenders can appeal their matters more expeditiously.

The recommendations below in the Analysis and Options section seek to address these areas.

Previous Reports/Authority

Authority

The following by-laws, as amended, and policies were referenced in this report:

- Parking By-law [064-2019](#)
- Encroachment By-law [034-2017](#)
- Idling By-law [170-2004](#)
- Newspaper Box By-law [372-2004](#)
- Nuisance By-law [195-2000](#)
- Road Occupancy By-law 294-94
- Roadside Sales By-law [125-98](#)
- Long Grass and Weeds By-law [125-2022](#)
- Snow Clearing By-law [227-2022](#)
- Traffic By-law 284-94

There is no existing Road Allowance by-law at this time. Visit the [By-law Library](#) for more information.

Previous Reports

[Snow Clearing By-law](#), Item 12, Report No. 36, of the Committee of the Whole, adopted without amendment by Council, September 28, 2022.

[By-Laws Technical Amendments](#), Item 12, Report No. 38, of the Committee of the Whole, adopted without amendment by Council, November 29, 2022.

[Review of Encroachment By-Law](#), Item 1, Report No. 10, of the Committee of the Whole (Working Session), adopted as amended by Council, February 16, 2016.

[Council-approved By-law Strategy](#), Item 3, Report No. 3 of the Priorities and Key Initiatives Committee, adopted without amendment by Council, June 24, 2014.

[Safe Streets Act, 1999, S.O. 1999, c. 8](#)

Analysis and Options

Staff are making the following recommendations for the proposed by-law, summarized along with the current state and reasoning here:

| No | Current state | Recommendation | Intended impact |
|-----------|---|---|---|
| 1 | There is no by-law that centralizes regulations for the road allowance, i.e. the public lands between properties lines that include highways, sidewalks, and public boulevards. | To create a “Road Allowance” by-law that incorporates existing regulations for the road allowance, and also creates additional provisions to prohibit placing of objects on the road allowance that: <ul style="list-style-type: none"> • create a health or safety issue, or contributes to erosion, flooding or a negative effect on the environment; and • disrupt the sightlines of pedestrian and/or vehicular traffic. <p>Also, to prohibit various other activities that contribute to issues and complaints by the public, such as explained in Attachment 1.</p> | To provide a central by-law to address opportunities to improve regulations and make it easier for the public to understand what the rules are. |
| 2 | The City has an Encroachment By-law, which addresses what can be placed on public lands. | To incorporate and update the Encroachment By-law into the Road Allowance By-law | To centralize regulations with respect to what is allowed on the road allowance. |
| 3 | The City has a separate Newspaper Box By-law. | To incorporate and update the Newspaper Box By-law into the Road Allowance By-law. | To further centralize regulations with respect to newspaper boxes on the road allowance. |
| 4 | The Nuisance By-law and the Safe Streets Act address similar behaviours; however, there are some differing examples of prohibited behaviour. | To add the behaviours prohibited by the Safe Streets Act into the Nuisance By-law. | To provide greater clarity to the public on what behaviours are prohibited, and to have greater consistency with provincial regulations. |

| No | Current state | Recommendation | Intended impact |
|-----------|--|--|--|
| 5 | <p>The City has a “Road Occupancy” permit for those who would like to cut the road open, such as to maintain utilities, however, it does not have a permit for other construction-related activities that impact or occur on the road allowance.</p> | <p>To repeal the Road Occupancy By-law and incorporate it into the Road Allowance By-law, expanding the activities that the Road Occupancy Permit covers. The updated permit would continue to include work on public highways, but also activities that involve occupation of the road, such as placement of a Bin or Construction equipment, and/or closures or disruptions in order to move large and/or heavy objects.</p> | <p>To provide standards and coordination with respect to work on and use of City roads, in order to best support safe and expedient traffic flow for pedestrian and vehicular traffic.</p> |
| 6 | <p>The City has a Roadside Sales By-law created in 1998, which allows selling ice cream and other dairy from a non-motorized vehicle, such as an ice cream cart, as well selling drinks or foodstuffs from a motorized vehicle, such as a food truck.</p> <p>The Licensing By-law has more extensive regulations with respect to food carts and trucks, referred to as “refreshment vehicles”.</p> | <p>To repeal the Roadside Sales By-law and prohibit roadside sales, except for Refreshment Vehicles as allowed by the Licensing By-law.</p> | <p>To create one consistent set of regulations with respect to sales on the road allowance.</p> |
| 7 | <p>The City has a separate Snow Clearing By-law, which requires property owners to clear the sidewalks in front of their homes, unless the City already does so.</p> | <p>To incorporate the Snow Clearing By-law into the Road Allowance By-law.</p> | <p>To further centralize regulations with respect to rules on the Road Allowance.</p> |
| 8 | <p>Different by-laws which pertain to the road allowance have different enforcement tools.</p> | <p>To include a range of enforcement options for the City to apply for this area, including the option to issue orders, issue municipal Administrative Monetary Penalties and Provincial fines, as well as to recover any costs for remedial work done to repair or restore something on the road allowance.</p> | <p>To provide the City with a range of options to apply to achieve compliance.</p> |

| No | Current state | Recommendation | Intended impact |
|----|---|---|---|
| 9 | <p>At present, the City issues Refreshment Vehicle licences for food trucks, hot dog carts and other mobile food vendors. The City also issues permits for Special Events which may include various outdoor commercial businesses, such as vendors, buskers, artists and other outdoor sales.</p> <p>Staff discussed developing additional business licence types for public space businesses, such as those that typically operate at special events, so that they can operate year-round.</p> <p>Some key priorities are not detracting from the existing business communities and establishing spaces where these businesses can operate and flourish.</p> | <p>For City staff to continue to work on developing public space businesses through the following interdepartmental collaborations:</p> <ul style="list-style-type: none"> • Refreshment vehicles: Staff will continue to work on opportunities to contribute to the growth of the refreshment vehicle industries. • City Events Strategy: Staff continue to work on this initiative to contribute to City's rich special events culture. • Areas for outdoor businesses: Staff are exploring the development of areas where outdoor businesses can flourish, contributing to the development of the City's business communities. | <p>To continue to develop the City's arts, entertainment and business cultures, contributing to success of existing communities while exploring opportunities for growth of new ones.</p> |
| 10 | <p>Some municipalities have "boulevard gardens" permits, gardens in portion of their front yard in between their private property lot line and the road, an alternative to having grass.</p> <p>The City's Encroachment By-law currently allows vegetation as a "simple encroachment", subject to various restrictions, such as they do not obstruct sightlines, and that plants are at least 30 cm from a sidewalk, 200 cm from a fire hydrant, 100 cm from curbs and other public infrastructure.</p> | <p>To continue to allow vegetation on the public boulevard in the Road Allowance By-law, subject to the same restrictions.</p> | <p>To enable residents to continue to create beautiful gardens in front of their homes, in a safe manner that does not obstruct vehicular or pedestrian traffic.</p> |

| No | Current state | Recommendation | Intended impact |
|----|--|--|---|
| 11 | <p>“Delivery robots” are becoming a common sight in places around the world, such as in certain U.S. and Chinese cities. These small robots typically deliver parcels and food, travelling along sidewalks and roads, and are considered a type of self-driving or automated vehicle by federal and provincial standards.</p> <p>Toronto and Ottawa have banned these “micro-utility devices” due to concerns about impeding accessibility on sidewalks, however other Canadian cities have not yet developed regulations.</p> <p>City staff are endeavouring to develop Vaughan as a centre for transportation innovation over the coming years, pending City Council approval.</p> | <p>The proposed Road Allowance by-law will prohibit, in general, the obstruction or disruption of sightlines in public spaces; this would apply to people, animals, robots or other objects. Staff believe this would be a sufficient measure to address any concerns with respect to robot operation or any other objects, as staff learn more about these increasingly popular vehicles.</p> | <p>To provide staff with a mechanism to address any issues that arise with respect to delivery robots, while not preventing any innovation that may be considered as the City explores transportation innovation through the Transportation Innovation program.</p> |
| 12 | <p>The Traffic By-law, which is enforced by York Regional Police, prohibits persons from riding e-bikes and e-scooters on sidewalks.</p> <p>Staff are recommending that this also be prohibited in the Road Allowance By-law.</p> | <p>To prohibit the riding of e-bikes and e-scooters on City sidewalks, unless this is allowed by City signage as indicated in the Traffic By-law.</p> | <p>To enable City staff to respond to complaints with respect to e-bikes and e-scooters on sidewalks, under the provisions of the Road Allowance By-law.</p> |

Financial Impact

The proposed by-law will be enforced by existing staff and as such, no financial impact is expected.

Operational Impact

If the Road Allowance By-law is approved by City Council, the proposed by-law would

be administered and enforced by existing City staff, who would be trained in-house on these changes. If approved, staff will monitor the resulting changes in any volumes of work to determine if additional staff are needed.

Broader Regional Impacts/Considerations

As municipalities grow and public space becomes more well utilized, more and more cities opt to have by-laws which govern activities on their roads, sidewalks and shared spaces. This by-law will bring the same approach to governance as many other Canadian cities, helping to minimize obstructions to pedestrian and vehicular traffic, and to create a safe shared space for our residents, businesses and visitors.

These recommendations are also in line with the Community Result Areas of our upper-tier municipality, the Regional Municipality of York, of creating communities which are livable and safe for our residents, and the mission of our police service, York Regional Police, to ensure our citizens feel safe and secure.

Conclusion

The recommendations of this report are in line with the Term of Council priority of Community Safety and Well-being, enhancing community safety through continued implementation of the By-law Strategy to ensure by-laws are relevant, up-to-date and accurate. This report was developed with input from other By-law and Compliance, Licensing and Permit Services, Building Standards, Development Engineering, Development Planning, Economic Development and Culture, Parks, Forestry and Horticulture Operations, Infrastructure Planning and Corporate Asset Management, Transportation and Fleet Management Services, and Risk Management. Staff believe the creation of this new regulation will help to maintain safe, well-managed public spaces for our residents, businesses and visitors to enjoy.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952.

Attachments

1. Proposed recommendations

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