

March 29, 2016

To: His Worship the Mayor
and Members of City Council

Re: Community Standards Bylaw

**RECOMMENDATION OF THE COMMUNITY AND PROTECTIVE SERVICES
COMMITTEE - MARCH 14, 2016**

1. That *The Regina Property Maintenance Bylaw, 2008-48* be repealed.
2. That the City Solicitor be instructed to bring forward a new Community Standards Bylaw consistent with the draft bylaw attached as Appendix "A" to this report.

COMMUNITY AND PROTECTIVE SERVICES COMMITTEE – MARCH 14, 2016

Brian Black, representing the Whitmore Park Community Association, addressed the Committee.

The Committee adopted a resolution to concur in the recommendation contained in the report. Recommendation #3 does not require City Council approval.

Councillors: Bob Hawkins (Chair), John Findura, Shawn Fraser and Mike O'Donnell were present during consideration of this report by the Community and Protective Services Committee.

The Community and Protective Services Committee, at its meeting held on March 14, 2016, considered the following report from the Administration:

RECOMMENDATION

1. That *The Regina Property Maintenance Bylaw, 2008-48* be repealed.
2. That the City Solicitor be instructed to bring forward a new Community Standards Bylaw consistent with the draft bylaw attached as Appendix "A" to this report.
3. That this report be forwarded to the March 29, 2016 meeting of City Council for approval.

CONCLUSION

A new Community Standards Bylaw to replace the existing *Regina Property Maintenance Bylaw No. 2008-48* will streamline bylaw enforcement processes by providing measurable standards for investigating nuisance complaints, providing additional mechanisms for dealing with repeat offenders, and removing sections of the bylaw that duplicate the mandate of provincial agencies and other code enforcement branches of the City. The new Community Standards Bylaw will also introduce provisions requiring vacant and placarded buildings be secured from unauthorized entry. To facilitate the process of closing existing cases under the previous bylaw, the new bylaw will come into effect on May 1, 2016.

BACKGROUND

The Bylaw Enforcement Branch enforces minimum property maintenance standards as prescribed by *The Regina Property Maintenance Bylaw No. 2008-48*. The Bylaw came into effect in 2008 and through the process of enforcing bylaw orders over the past seven years, several issues have been identified. As a result, this has necessitated a full bylaw review to improve enforcement processes and to ensure alignment with the Official Community Plan (OCP) approved by City Council in December 2013.

A review of the Bylaw began in April 2015 and specifically addressed the following concerns:

- Clarity of wording in parts of the Bylaw;
- Incorporating relevant legal considerations that have been identified through the process of enforcing the Bylaw;
- Mechanisms for effectively dealing with repeat offenders;
- References to the *National Building Code of Canada* and the *National Fire Code of Canada* that may be better enforced by other code enforcement branches of the City; and,
- Sections of *The Zoning Bylaw* that may be a better enforced under property maintenance.

DISCUSSION

Nuisances

Presently, *The Regina Property Maintenance Bylaw* defines a nuisance as:

- i) a building, structure, private sidewalk, driveway, excavation, drain, ditch, watercourse, pond, surface water, or swimming pool that, because of its ruinous or dilapidated state or its faulty construction, or for any other reason, is dangerous to the public safety or health, or substantially depreciates the value of other and or improvements in the vicinity; or
- ii) a building or structure wherein activities or things that affect the amenity of a neighbourhood occur or are present.

This definition is open to subjective interpretations, particularly when it comes to neighbourhood amenity, often eluding precise measurement and creating enforcement challenges. The Bylaw Enforcement Branch receives several complaints where the complainant believes the condition of another property is a nuisance based on a subjective valuation of their own property and the surrounding neighbourhood. Demonstrating that a building or structure poses a “danger to public health or safety or negative impact on amenity of a neighbourhood” can be exceptionally difficult to prove and would require the City to retain external experts at its’ own expense to prepare assessment reports. The proposed Community Standards Bylaw provides clarity around the circumstances that would qualify as a nuisance (refer to Part II of the attached draft bylaw in Appendix A). The new bylaw wording does not change the intent of the bylaw, though provides measureable standards that can be verified by visual inspection and easily confirmed with photographic evidence. It also aligns with *The Cities Act*, the legislative authority for the Bylaw Enforcement Branch.

Unsecured Buildings

The Administration has faced questions from area residents, organizations, and community associations regarding unsecured and boarded up structures. Many see these structures as an impediment to community growth and over time, these buildings become magnets for vermin, garbage dumping, fires, and crime, which is a concern for the community, Regina Fire and Protective Services as well as the Regina Police Service.

Many cities have introduced bylaw provisions that require vacant buildings be secured from unauthorized entry either by maintaining minimum standards for all exterior doors and windows, or by fastening plywood boards over exterior openings. In Regina, this practice already exists for fire-damaged structures but there is no provision in *The Regina Property Maintenance Bylaw* to require that abandoned structures be secured. The Administration recommends including provisions in the new bylaw that will require abandoned and placarded buildings be secured against unauthorized entry. In cases where a building has been boarded up, the bylaw will further require that all windows and exterior doors be repaired to minimum standards after 90 days.

Making Enforcement More Efficient

Under the current bylaw, once an offence of the bylaw is identified, an Order to Comply must be written to commence enforcement action. Only after the time to comply with the order has passed, and any appeal right exhausted or the time for appeal has passed, can enforcement be pursued through prosecution. While the Order procedure may prove effective to obtain compliance from the majority of offenders, it has proved to be vulnerable to abuse by repeat offenders. Additionally, if a person were to commit an offence with slightly different circumstances than outlined in a previous Order, then the Order to Comply process is required to start over again. There are a number of repeat offenders that will only rectify a violation after an Order to Comply has been issued and the right to appeal has been exhausted. This can result in a nuisance remaining on a property for several weeks or months while the property owner goes through the Order and appeal process.

To expedite the enforcement process, the Administration suggests including a general offence for failing to comply with the provisions of the Bylaw, which can be relied upon to move directly to prosecution for repeat offenders. The option to issue an Order will still exist, but in cases where it appears an offender is attempting to delay enforcement, enforcement by prosecution can be pursued. A similar system exists for the enforcement of *The Zoning Bylaw*, *The Building Bylaw*, and *The Regina Fire Bylaw*.

The second method of expediting enforcement recommended by the Administration is the establishment in the bylaw of a Notice of Violation ticket regime. Notice of Violation tickets expedite enforcement in situations where an offence is clear and simple to rectify. The ticket commences an enforcement action but allows for an offender to make a voluntary payment to avoid having to make a court appearance. The voluntary payment substitutes for the fine that might be imposed if the matter were to proceed to court. This practice has been adopted by the City of Saskatoon for similar offences and is currently in use in Regina for certain offences of *The Regina Animal Bylaw* and *The Regina Fire Bylaw*.

The Administration recommends that Notice of Violation penalties be authorized for five types of bylaw contraventions: untidy and unsightly property, overgrown grass, open excavations, outdoor lighting, and junked vehicles. The Administration further recommends that Notice of Violation penalties be set according to Schedule “B” of the draft bylaw attached to this report.

The goal of the enforcement program is education and voluntary compliance. The Notice of Violation is intended to be used in appropriate situations to expedite the enforcement process. As with all Notices of Violation, a person who disputes that an offence has been committed is entitled to seek adjudication through the court process.

While it is recommended that the bylaw come into effect on May 1, 2016, it is intended that Notice of Violations will not be issued until May 2017. During this period, the Administration will be procuring and implementing the necessary system and procedural changes, subject to 2017 budget approvals, while educating the public on the forthcoming changes.

Code Enforcement

Schedule “A” of *The Regina Property Maintenance Bylaw*, which outlines minimum property standards, includes several references to codes and legislation that duplicates the mandate of provincial agencies and other code enforcement branches of the city. This duplication has resulted in a bylaw that ineffectually attempts to deal with a wide range of building-related issues. Specifically, there are three main areas of overlap with other legislation:

- 1) Fire Safety: Both *The Fire Bylaw* and *The Regina Property Maintenance Bylaw* contain provisions regarding smoke alarms and egress. The City’s fire inspectors are authorized by *The Fire Safety Act* to promote fire safety and fire prevention and have specific education and training to do so. A Bylaw Standards Officer could issue an Order under *The Regina Property Maintenance Bylaw*, but in almost all cases, issues related to smoke alarms and egress are best addressed by fire inspectors.
- 2) Environmental Health: Schedule “A” of *The Regina Property Maintenance Bylaw* contains provisions related to sanitation, plumbing, heating, mould growth, and infestations. Severe environmental health concerns that adversely affect the health and safety of tenants are already covered under *The Public Health Act, 1994*. Under authority of that Act, Public Health Inspectors may perform inspections, write an order to remedy, or placard (condemn) a house as “Unsanitary and Unfit for Occupation”. Bylaw Standards Officers have not received formal training in conducting environmental health assessments and *The Cities Act* does not provide municipal inspectors with the authority to placard a building.
- 3) Building Code: Schedule “A” of the Bylaw contains several provisions adapted from the *National Building Code of Canada* (NBC). Several Bylaw Standards Officers have completed the Building Code Training for Canadians Series I course based on applicable sections of the NBC. While Bylaw Standards Officers who have completed the course may qualify for a building official’s licence, they are not appointed municipal Building Inspectors under *The Building Bylaw* and cannot exercise authority under *The Uniform Buildings and Accessibility Standards Act*. In addition, the authority required to deal with structural issues of buildings is not set out in *The Cities Act*, which is the statutory authority for *The Regina Property Maintenance Bylaw*.

The Administration suggests removing sections of Schedule “A” that duplicate the above-mentioned legislation as this will encourage exercise of authority for code enforcement by fully trained and legislatively authorized inspectors. This also will allow Bylaw Standards Officers to concentrate on property nuisances that are not covered under other legislation.

Implementation Strategy

The Bylaw Enforcement Branch has undertaken a comprehensive review of enforcement processes and procedures in order to ensure alignment with the new Community Standards Bylaw and to identify areas for improving efficiency.

To facilitate the process of closing existing cases under the previous Property Maintenance Bylaw, the Administration recommends that the new Community Standards Bylaw come into effect on May 1, 2016. Work will continue in 2016 to support the implementation of Notice of Violations by the second quarter of 2017.

Housing Standards Enforcement Team

The Administration will be launching a program review of the Housing Standards Enforcement Team (HSET) in 2016. HSET began as a program in 2004 to improve housing conditions and is currently comprised of representatives from Bylaw Enforcement, Public Health, Fire & Protective Services, Social Services, and Regina Police Service. HSET’s multi-agency approach has proven to be effective for ensuring that unsafe and unsanitary housing is repaired and maintained to an appropriate standard, and in severe cases, placarded or demolished.

The Administration has recognized the need to enforce minimum health and safety standards applies beyond occupied residential dwellings. Unoccupied and unmaintained properties become magnets for vermin, garbage dumping, fires, and crime, which is a concern for both the community and the various agencies that enforce health and safety standards. Hazardous conditions found on vacant lots, abandoned buildings, and other residential, commercial, and industrial sites where safety has been comprised can be mitigated through a coordinated multi-agency response.

The 2016 review will refocus the scope and mandate of HSET to respond to a broader range of community safety issues. This will better position the City to minimize social and environmental impacts and improve the amenity, health, and security of Regina’s neighbourhoods. The primary goals of the HSET review align with the objectives of the new Community Standards Bylaw proposed in this report: identifying areas for improved integration between various enforcement agencies responsible for health and safety standards; reducing service redundancies; and creating greater role clarity in enforcing complementary legislation.

RECOMMENDATION IMPLICATIONS

Financial Implications

The introduction of a notice of violation for select bylaw contraventions is not intended to be a significant source of revenue. It is the intention of the Administration to issue violation tickets in situations dealing with repeat offenders in an attempt to change behaviour. The use of violation tickets in the proposed bylaw amendments would be applied similarly to what is done with fire pit violations under *The Fire Bylaw*. In 2015, there were 150 fire pit complaints received;

however, only 26 violation tickets were issued. This generated approximately \$6,500 in fine revenue, with over 80 per cent of the inspections focused on education. While there will be modest revenue generated from the issuance of violation tickets, the real benefit will be realized through improved efficiency at the Regina Appeals Board, the Municipal Court, and the Bylaw Enforcement Office.

The Administration will be submitting a funding request for the acquisition of the ticket management system as part of the 2017 budget. This will support the introduction of a ticketing regime for the proposed bylaw, as well as supporting a ticketing program for other municipal bylaws, such as fire pit violation tickets, but excluding parking tickets. There is currently no system in place to manage non-parking tickets, with a voluntary payment option, in one consolidated system that links the business area with the payment management system and the Legal Department.

Environmental Implications

None with respect to this report.

Policy and/or Strategic Implications

The objectives of the new Community Standards Bylaw proposed in this report align with the priorities and policy direction outlined in the Official Community Plan:

- **Long-term financial viability:** The addition of an escalating fine system for repeat offenders will contribute to making bylaw enforcement services more financially sustainable.
- **Housing:** Bylaw requirements for securing vacant properties will ensure the maintenance and regeneration of existing housing stock, thereby decreasing the number of boarded up homes and underutilized vacant lots within the City.
- **Social development:** The Community Standards Bylaw supports community safety by mitigating community-identified social issues such as graffiti, health and safety hazards, and unsightly properties.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

A communication plan is being developed to educate the public on the forthcoming bylaw amendments. Further education and communication will occur throughout 2016 to inform the public of Notice of Violation process. As part of the process review and development associated with the proposed bylaw amendments, educating the public will be a crucial step of the enforcement process. Focus will be on the distribution of a brochure, and information added to the Regina.ca website, in an attempt to educate the public and minimize the chance of repeat offences.

Affected internal and external enforcement agencies have been notified of the changes being made in the new Community Standards Bylaw and transition plans will be developed to ensure complaints are dealt with by the appropriate authority.

Legal Counsel for the Regina Appeal Board will be advised of the new bylaw so that the changes can be communicated to the Board members.

DELEGATED AUTHORITY

The recommendations contained in this report require City Council approval.

Respectfully submitted,

COMMUNITY AND PROTECTIVE SERVICES COMMITTEE



Ashley Thompson, Secretary