

NO: R104

COUNCIL DATE: **JUNE 15, 2015**

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **June 10, 2015**
FROM: **General Manager, Engineering** FILE: **3900-20**
SUBJECT: **Bylaw Amendments to Support Improvements to Construction Traffic Management**

RECOMMENDATION

The Engineering Department recommends that Council:

1. Approve amendments to the:
 - a. *Highway and Traffic By-law, 1997, No. 13007*, as documented in Appendix I to this report; and
 - b. *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*, as documented in Appendix II to this report.
2. Authorize the City Clerk to bring forward the necessary amendment Bylaws for the required readings.

INTENT

The purpose of this report is to obtain Council approval to bring forward amendments to the *Highway and Traffic By-law, 1997, No. 13007* (the “Highway Bylaw”) and *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508* (the “MTI Bylaw”) that will further improve management of construction related impacts on streets to reduce delays to the traveling public.

BACKGROUND

As a result of the significant ongoing growth of the City and related development, staff have been working towards improving the management of construction related traffic disruptions. Extensive efforts have been put forward in establishing procedures to reduce delays to the traveling public, while balancing the need to maintain construction efficiency.

The Engineering Department created two “Traffic Management Coordinator” positions. These staff members are responsible for reviewing and accepting temporary traffic control plans prior to permit issuance and monitoring compliance with the issued permits by means of field inspections. Through this review and monitoring process, there have been significant improvements in the management of temporary traffic disruptions.

DISCUSSION

Four key areas, as described below, have been identified where changes are required to City Bylaws to further enhance the management of construction related disruptions.

1. Road Booking Requirement

Currently Traffic Obstruction Permits (TOP's) are issued for a period of time, which range from a few days to 1 year in duration. While the permit may be valid for this timeframe, the permit holder does not typically obstruct traffic for the entire permit period. In many cases, traffic obstructions will be implemented intermittently as necessary to complete the works. Managing the actual use of the permit has proven to be challenging under the current practice.

To better manage the traffic obstructions throughout the City and allow for coordination of these obstructions, staff have developed a web application to facilitate the "booking of a roadway". This is an innovative solution that we believe to be the first such process/application in Canada and we will be applying for an innovation award.

Once the permit has been issued, the permit holder will be required to submit a "Request to Proceed" via the web application a minimum of 3 days in advance of commencing the obstruction activity. Upon review by staff, provided there are no conflicting obstructions previously authorized, the permit holder would receive an email confirming the requested dates have been accepted. In the event the roadway is occupied by another permit holder for the requested dates, the second requestor will be given notice of this fact and would be advised to reschedule the obstruction activity to ensure that the flow of traffic is not adversely affected. Upon approval, the permit holder can obtain their "Approval to Proceed" document via the web application as defined in section 86.1 (8) of the Highway Bylaw.

The new process will ensure that the City is aware and able to coordinate construction activity and better manage the road network. Furthermore, this would better enable the traffic obstruction activities authorized under the permit to be inspected by staff to ensure compliance.

The web application is designed in a responsive format to allow for its use in the field via smartphones and tablets. The application will also display the permit expiry date and the road booking request status, which provides the permit holder with a simplified tool to comply with this new requirement.

2. Permit Holder's Traffic Manager

To ensure there is one person responsible for all aspects related to the traffic obstruction and a singular contact point to expedite the resolution of any issues, the holder of a traffic obstruction permit will be required to designate an individual as the "Traffic Manager" whom shall be responsible for complying with the obligations imposed by the permit.

The Traffic Manager must be present at the work zone, which is the subject of the permit, or available to meet immediately at the request of the Engineer. The permit holder must provide contact information for the Traffic Manager or designated representative with equal knowledge and authority as the Traffic Manager, and the person must be available at any hour of the day or night while the obstruction activity is underway. This change is defined in section 86.1 (7) of the Highway Bylaw.

3. Enforcement & Compliance

Currently, there is no penalty structure in place to allow staff to address non-compliance with permit requirements other than revoking the permit. At this time, the only fine in place is for obstructing a roadway without a permit in the amount of \$120 which may be reduced if paid within 7 days. This fine amount is not sufficient to ensure compliance. The current penalty structure leaves staff with very few options to address non-compliance.

To remedy this issue and to ensure permit holders will comply with permit and Bylaw conditions, staff are proposing to amend the MTI Bylaw to enable issuance of Municipal Ticket Informations (MTI's). The MTI's would be issued for non-compliance infractions, reserving the revocation of the permit for major safety issues. The proposed fine amounts are outlined Appendix II of this report.

Once the changes are approved, staff will implement an escalating enforcement strategy for non-compliant permit holders:

1. Verbal and/or written warnings;
2. MTI's; and
3. Suspending or revoking the permit for significant safety issues or repeated non-compliance.

4. Authority of the Engineer

To better manage various operational situations that arise as a result of temporary obstructions, amendments to the Highway Bylaw have been included to authorize the Engineer to establish permit forms, application forms and impose obligations and responsibilities on the permit holder as required.

The remainder of the proposed amendments to the Highway Bylaw are largely to support the changes to facilitate the issuance, monitoring and compliance of the traffic obstruction permits.

Consultation with Stakeholders

Presentations explaining the scope of the proposed changes were made to the Transportation Committee and the proposed changes were endorsed by the Committee. Subsequently, presentations were also made to the Development Advisory Committee who were in support of the changes.

Staff have engaged a contractor whom frequently works within the City to test the functionality of the web application.

Legal Review

This report and the related Bylaw amendments have been reviewed by staff of the Legal Services Division and they have no concerns.

Next Steps

Staff will engage in notifying affected stakeholders of the new permit process. The old process will remain in place until the notification period is completed and the new process will be launched on September 30, 2015 after the peak construction time period to ensure a smoother transition.

CONCLUSION

Based on the above discussion, it is recommended that Council:

1. Approve amendments to the:
 - a. *Highway and Traffic By-law, 1997, No. 13007*, as documented in Appendix I to this report; and
 - b. *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*, as documented in Appendix II to this report.
2. Authorize the City Clerk to bring forward the necessary amendment Bylaws for the required readings.

Fraser Smith, P.Eng., MBA
General Manager, Engineering

JB/RJS/clr

Appendix I - Proposed Amendments to the *Highway and Traffic By-law, 1997, No. 13007*

Appendix II - Proposed Amendments to the *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*

**Proposed Amendments to Highway and Traffic By-law, 1997,
No. 13007, as amended (the "Bylaw")**

That the Bylaw be further amended as follows:

1. By adding the following new definitions to Section 1, to be inserted alphabetically in relation to the existing definitions:

"AUTHORIZATION TO PROCEED" means the written notification provided by the Engineer to a permit holder prior to the permit holder commencing activities under an issued traffic obstruction permit as described in Section 86.1(8)(b)

"REQUEST TO PROCEED" means the written notification provided to the Engineer by a permit holder prior to commencing activities under an issued traffic obstruction permit as described in Section 86.1(8)(b).

"TRAFFIC CONTROL MANUAL" means the *Traffic Control Manual for Work on Roadways* issued by the British Columbia Ministry of Transportation and Highways, as may be updated, amended or replaced from time to time.

"TRAFFIC MANAGEMENT PLAN" means a combination of text, layouts, figures and drawings that define specifically what traffic control measures will be provided by the applicant for the project, how they will be implemented and on what schedule and such other information as may be required from time to time by the Engineer.

"WORK ZONE" means an area on or adjacent to a highway in which surveying, construction, maintenance, utility or other activities, including but not limited to filming and other special events or uses, take place to the extent that the passage of public traffic may be influenced. For the purposes of this Bylaw, work zone includes the elements of a work zone as described in either text, figures or both in the Traffic Control Manual.

2. By deleting Section 85(2)(b) in its entirety.
3. By deleting the words "Section 85" from Section 86 and replacing them with the words "Section 85 and Section 86.1".
4. By inserting the following new Sections 86.1 and 86.2 immediately following existing Section 86:

TRAFFIC OBSTRUCTION PERMITS

86.1 (1) **Traffic Obstruction Permits.** The Engineer may issue a traffic obstruction permit to allow a person to obstruct or interfere with the free flow of traffic on any highway or lane subject to payment of the appropriate fee and subject to such other conditions in this Section 86.1 and in Section 86 that may be applicable.

(2) **Authority of Engineer.** The authority of the Engineer under Section 86.1(1) includes the authority to:

- (a) establish forms for permit applications;
- (b) establish timelines for permit applications;
- (c) require such additional information as may be necessary or desirable to assess an application;
- (d) establish forms for permits;
- (e) specify hours of operation and dates of operation in a permit;
- (f) establish requirements for traffic management plans and the information required to form part of a traffic management plan;
- (g) require the submission of a traffic management plan as part of an application and require compliance with the approved traffic management plan as a condition of the permit;
- (h) impose obligations and responsibilities in the permit on a person known as the traffic manager in relation to the approved traffic management plan;
- (i) impose terms and conditions in a permit, including traffic control details, to address issues of public safety, worker safety and protection of City and private property;
- (j) impose signage requirements in a permit;
- (k) impose requirements in a permit to provide notice to specified persons in the manner specified in the permit;
- (l) impose requirements in a permit to coordinate traffic control and safety activities with adjacent work zones in the manner specified in the permit;
- (m) require an applicant to pay the City for the use of a pay station area prior to issuance of a permit;
- (n) specify within a permit persons responsible for compliance with the terms and conditions of the permit;
- (o) establish a system of requiring notice for, and approval of, the date of commencement of activities under an issued permit; and
- (p) establish timelines for notice and approval requirements;
- (q) require an applicant to enter into a highway license agreement to occupy a highway for purposes related to the permit, and require the applicant to pay a license fee for use of the highway; and
- (r) impose terms and conditions in a permit allowing the applicant to occupy a highway for specified purposes and require the applicant to pay a fee for use of the highway.

(3) **Offence for No Permit.** Any person who causes or permits traffic to be obstructed on a highway without having first received a traffic obstruction permit in accordance with this Bylaw is guilty of an offence.

(4) **Activity Commenced Without Permit.** If a person causes or permits actions to be carried out that are ordinarily authorized by a traffic obstruction permit, without having first obtained a traffic obstruction permit, all such activity shall cease until a traffic obstruction permit is obtained and applicable permit fees shall be doubled.

- (5) **Arterial Highways.** Traffic obstruction permits issued pursuant to this section shall not apply to any provincial arterial highway.
- (6) **Additional Restrictions after Issuance.** Issuance of a traffic obstruction permit is subject to public safety, traffic queues and traffic movement being monitored by the Engineer while the approved traffic management plan is implemented. If the Engineer, in his sole discretion, deems that public safety has not been adequately addressed, that delays to the public are excessive or that there is a need to reconcile competing or conflicting traffic movements, the Engineer may adjust, modify or further restrict the hours of operation, dates and traffic control details associated with the traffic obstruction permit.
- (7) **Traffic Manager.** The holder of a traffic obstruction permit must designate an individual as the traffic manager who shall be responsible for complying with the obligations imposed by the permit on the traffic manager. The traffic manager must be present at the work zone which is the subject of the permit or available to meet immediately at the request of the Engineer. The permit holder must provide contact information for the traffic manager, or designated representative with equal knowledge and authority as the traffic manager, and the person must be available at any hour of the day or night.
- (8) **Obligations Created by the Permit.** In addition to any obligations imposed by an issued traffic obstruction permit, the following obligations also apply:
 - (a) The permit holder shall comply with all terms, conditions, standards and requirements of this Bylaw and the traffic obstruction permit.
 - (b) When so stipulated by a traffic obstruction permit, the permit holder must provide written notification to the Engineer in the form of a request to proceed and obtain the written authorization of the Engineer confirming the approved work dates prior to commencing activities under an issued permit.
 - (c) A copy of the permit, including the approved traffic management plan, and a copy of the authorization to proceed, where applicable, must be present at the work zone and made available for inspection by the Engineer, a Bylaw Enforcement Officer or a Peace Officer at all times when activities are being carried out under the permit.
 - (d) If the authorization to proceed has been obtained from the Engineer, but for any reason the activities do not proceed on the date specified in the approval, the permit holder must provide notice to the Engineer without delay, in the manner provided for in the permit
 - (e) Signage placed pursuant to a permit must not obstruct sightlines or existing signage and traffic control devices, and must not impede vehicle, bicycle or pedestrian traffic.
 - (f) Where a lane closure is approved by a permit, traffic stoppages may only occur in accordance with the conditions provided for in the permit.

- (g) In the event of unforeseen circumstances which cause the permit holder to be unable to comply with the traffic obstruction permit, including the traffic management plan, the permit holder must:
 - (i) provide notice to the Engineer without delay in the manner provided for in the permit; and
 - (ii) comply with any direction given by the Engineer, which may include a direction to cease all activities until authorized by the Engineer to proceed.
 - (h) Once the traffic obstruction activities are completed, the permit holder must restore the work zone and surrounding areas to a state and condition acceptable to the Engineer.
 - (i) The obligations imposed by the permit on the traffic manager are also imposed on the permit holder and the permit holder shall be responsible for ensuring those obligations are met by the traffic manager or the permit holder.
- (9) **Insurance.** At the discretion of the Engineer, the applicant or their contractor will be required to have in effect liability insurance in the amount specified by the Engineer naming the City as an additional insured.
- (10) **Revocation or Suspension of Permit.** The Engineer may revoke or suspend a traffic obstruction permit in any of the following circumstances:
- (a) if any of the terms and conditions of the permit or of this Bylaw are breached; or
 - (b) if the information supplied by the applicant in support of the permit application is found by the Engineer to have been inaccurate, incomplete, or erroneous.
- (11) **Effect of Revocation or Suspension.** If a traffic obstruction permit is revoked or suspended under Section 86.1(10):
- (a) all activities being carried out under the permit must cease, except for work which is necessary to remedy the non-compliance;
 - (b) the non-compliance must be resolved to the satisfaction of the Engineer within 24 hours;
 - (c) despite clause (b), if the Engineer is of the opinion that special circumstances exist, the non-compliance must be remedied by a date the Engineer considers reasonable given the circumstances; and
 - (d) no activity other than the work described in clause (a) shall resume until authorized in writing by the Engineer.
- 86.2 (1) As a pre-requisite to the issuance of a traffic obstruction permit under Section 86.1, the Engineer may require the applicant to deposit with the City a sum of money:
- (a) sufficient to pay for the cost of repairing any damage likely to be done to the highway; and

- (b) as sufficient security to ensure that obligations imposed by the traffic obstruction permit shall be fulfilled and completed within the time specified in the permit.
 - (2) The security in subsection (1) may be in the form of a certified cheque or letter of credit.
 - (3) The City may draw down on the security in subsection (1) if the City fulfills requirements imposed by the permit or this Bylaw should the permit holder fail to do so.
 - (4) If the amount of the security in subsection (1) is insufficient for the City to conduct all necessary inspections and fulfill any requirements that the permit holder has failed to fulfill, the permit holder shall pay any deficiencies to the City on demand. The City may withhold the issuance of any future permits to the permit holder until the full amount outstanding has been paid to the City.
 - (5) The security in subsection (1) may be returned to the permit holder after the permit expires in accordance with the terms of the permit.
 - (6) Failure by the permit holder to repair damage or fulfill such obligations as are set out in a permit within the specified time, shall result in the forfeiture of the deposit to the City as liquidated damages.
 - (7) The security in subsection (1) does not relieve the permit holder for damages or costs in excess of the amount of the security held.
5. By adding a new subsection (5) to Section 92 immediately following existing subsection (4) as follows:
- (5) Prosecution of a person for an offence under this Bylaw does not exempt any person from the application of, or obligation to comply with, other applicable provisions of this Bylaw, including the forfeiture of securities or revocation or suspension of a permit issued pursuant to this By-law or any other City bylaw.

**Proposed Amendments to Surrey Municipal
Ticket Information Utilization By-law, 1992, No. 12508,
as amended (the "MTI Bylaw")**

That the MTI Bylaw be further amended as follows:

1. By inserting a new Section 32 in Schedule 1 to read as follows:
 31. Highway and Traffic - Manager, Bylaw & Licensing Services
By-law, 1997, - Senior Bylaw Enforcement Officer
No. 13007 - Bylaw Enforcement Officer
- Member of the Royal Canadian Mounted Police
2. By adding a new Schedule 33 as attached.

SCHEDULE 33 TO BYLAW NO. 12508

<u>SURREY HIGHWAY AND TRAFFIC</u> <u>BY-LAW, 1997, NO. 13007</u>	<u>SECTION</u>	<u>FINE</u>
No traffic obstruction permit	86.1(3)	\$1000
No traffic manager	86.1(7)	\$500
Fail to comply with permit	86.1(8)(a)	\$1000
Fail to obtain authorization to proceed	86.1(8)(b)	\$500
Fail to produce permit	86.1(8)(c)	\$1000
Fail to notify of delay	86.1(8)(d)	\$500
Obstruct sightlines	86.1(8)(e)	\$500
Impede traffic	86.1(8)(e)	\$1000
Traffic stoppage not permitted	86.1(8)(f)	\$1000
Unlawful resumption of work	86.1(8)(g)	\$1000
Fail to restore work area	86.1(8)(h)	\$500