



Memorandum

Corporate By-law Number: 288-2023-Corporate Services-Licensing & Enforcement

TO: Office of the City Clerk **FILE:**

FROM: Doug Vincent
Manager, Licensing & Enforcement Division – Corporate Services

DATE PREPARED: September 6, 2023

SUBJECT: By-law 288-2023 – A by-law to amend By-law 135-1992, to prohibit and regulate signs and other advertising devices

MEETING DATE: City Council – December 18, 2023

By-law Description: A by-law to amend By-law 135-1992 being a by-law to prohibit and regulate signs and other advertising devices, in the City of Thunder Bay.

Authorization: Report 173/2023 (Development & Emergency Services / Licensing & Enforcement) Committee of the Whole - May 8, 2023.

By-law Explanation: The purpose of this by-law is to amend By-law 135-1992 being a by-law to prohibit and regulate signs and other advertising devices, in the City of Thunder Bay.

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER 288-2023

A By-law to amend By-law 135-1992, being a by-law to prohibit and regulate signs and other advertising devices in the City of Thunder Bay

Recitals

1. By-law 135-1992, enacted and passed May 25, 1992, is a by-law to prohibit and regulate Signs and other advertising devices in the City of Thunder Bay.
2. Section 8 of the *Municipal Act, 2001*, as amended provides that the powers of a municipality under this or any other Act shall be interpreted broadly to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.
3. Section 10 (2) of the *Municipal Act, 2001*, as amended, grants broad authority to a single tier municipality to pass by-laws respecting, among other thing, matters concerning economic, social and environmental well being of the community, including signs.
4. City Council deems it expedient to amend the City's Sign By-law 135-1992, to effectively regulate mobile signs and to encourage greater overall adherence and compliance to all requirements of the by-law.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. SECTION 2 - DEFINITIONS is amended by inserting, in alphabetical order, the following definitions:

"Agent" means any person, other than the owner(s) of property, which makes application for a sign permit on behalf of the owner or authorized tenant or other person with owner's consent.

"City" shall mean the Corporation of the City of Thunder Bay.

"Manager" means the Manager of Licensing & Enforcement or designate or a person(s) assigned delegated signing authority for Sign Permits.

"Municipality" means the Corporation of the City of Thunder Bay

“Municipal Act 2001” means the *Municipal Act, 2001* S.O. 2001, c25, as amended.

“Officer” means any Municipal Law Enforcement Officer appointed under the Police Services Act, Police Officer or other persons authorized to enforce this By-law by the City of Thunder Bay.

“Owner” means the registered owner(s) of a Land or their lawfully appointed representative.

“Person” includes the owner, tenant, lease holder, an agent, a corporation or individual human being(s).

“Sign Height” means the distance from the average original grade level at ground, measured vertically to the highest point of the sign structure.

“Tenant or Lessee” means a person, other than the owner, that has a lawful right of use of the land or portion(s) of that land, subject to a written legal contract such as a tenancy or lease agreement.

2. SECTION 4 – PERMITS is amended by deleting subsection 4.5 and replacing it with:

4.5 The fee for required permit review, including approval or denial, shall be set out in the appropriate user fee schedule in the City’s fees and charges By-law, as amended or replaced from time to time.

3. SECTION 4 – PERMITS is amended by adding the following:

4.6. (a) All applications shall be submitted in the format(s) made available by the City and must be regular and complete on their face bearing accurate and readable information and accompanied by the appropriate fee before processing.

(b) Any applications received that are incomplete, inaccurate or illegible may be rejected for processing and may be subject to an additional re-processing fee if resubmitted.

(c) Any applications received by an Owner/Agent, who has been notified by an Officer of a non-compliance issue with another sign of the Agent, the Manager may refuse the issuance of any additional permit(s) until full compliance with the by-law is obtained concerning outstanding compliance issues, including outstanding fees or fines owed to the municipality and will notify the applicant of the reason(s) for refusal.

(d) The Manager may impose any terms and conditions to a permit, where deemed appropriate, to prevent or manage potential issues the City considers

relevant from time to time or where the applicant has demonstrated non-compliance in the past.

4.7 An Officer, in consultation with the Manager, may revoke any permit issued where the Owner or Agent does not erect, construct or maintain the sign in accordance with the approved application plans, terms or conditions or the permit or fails to adhere to other provisions of the by-law; such signs shall be immediately removed from displaying any advertising and, if mobile a sign, removed from location.

4. SECTION 7 – MOBILE SIGNS AND MOBILE BILLBOARD SIGNS is amended by deleting subsection 7.1 (a) and replacing it with the following:

7.1 (a) an application for a permit thereof has been submitted to the Manager and such application has been endorsed by the person for whom or on whose behalf the sign is proposed to be installed, erected or displayed, or by such person's authorized agent; and

5. SECTION 7 – MOBILE SIGNS AND MOBILE BILLBOARD SIGNS is amended by adding the following subsections:

7.7 (a) No person shall allow a mobile sign or mobile billboard sign to remain erected past the expiry date of the current permit unless seven (7) days prior to that expiration date, a request for a new permit and appropriate fee are submitted to the Manager.

(b) No person shall allow a mobile sign or mobile billboard sign to be erected or displayed longer than eight (8) calendar months in any twelve-month period immediately preceding the application date, on any land except where another commercial tenant of a multi-occupancy commercial building, subsequently obtains the required permit under the provisions of subsection 7.2.

(c) Every mobile sign or mobile billboard sign, who's permit has expired and not renewed or been revoked, shall immediately remove all visible advertising and remove the sign within seven (7) days of the expiration of the last permit.

(d) Notwithstanding subsection 7.7(c), the requirement to remove an expired sign within seven (7) days; where extenuating circumstances exist, including environmental limitations, the Manager can, upon request, exempt persons from complying with the removal timeline where all other provisions are complied with, for such period the Manager deems appropriate.

7.8 (a) Where a mobile sign or mobile billboard sign is erected or displayed on private lands, without an authorizing permit first being issued, the Manager can order the sign removed and may refuse any future permit be issued for the lands for, any mobile signs or mobile billboard signs, for a period of up to four (4)

months for the first occurrence on that property or up to one (1) year for subsequent occurrence on those same lands.

(b) Notwithstanding section 7.8(a), the imposition of any suspension from issuing a permit on subject lands, the Manager may, at their discretion and upon paying the appropriate fee, issue a permit with appropriate terms and conditions for anytime within the suspension period.

7.9 The Manager has the right to vary any prescribed user fee in the by-law, to a lesser amount, including without any charge, where the circumstances warrant such considerations to be appropriate and such change shall be noted on the permit and reasons recorded in the permit file.

6. SECTION 12 – NON-CONFORMING SIGNS AND UNLAWFUL SIGNS is amended by deleting the following:

All Existing Sections being: SECTION 12 – NON-CONFORMING SIGNS AND UNLAWFUL SIGNS, 12.1, 12.2 (a,b,c), 12.3, 12.4, 12.5, 12.6 (i-iii), and replaced with the following section and subsections:

7. SECTION 12- NOTICES, ORDERS, REMEDIAL ACTIONS

12.1 Any Officer, who believes a contravention of this by-law is occurring or has occurred, may issue a notice of violation in any form, including an order, to any person deemed appropriate, including the owner of land, requiring that person to comply with the notice in the manner and timeframe setout therein.

12.2 It is an offence for any person to fail to comply with a notice of violation or an order.

12.3 If a person fails to do a matter or thing as directed or required by this By-law, including to comply with an order under this By-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person(s) expense.

12.4 For the purposes of subsection 12.3, the Municipality may enter upon land at any reasonable time.

12.5 The Municipality may recover the costs of doing a matter or thing, under subsection 12.3, including assessing user fees and removal and storage cost, from the person directed or required to do it by action or by adding the costs to the tax roll of the property where the sign was located, and collecting said costs in the same manner as property taxes.

12.6 The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus

interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

8. SECTION 15 – PENALTY is amended by deleting the section in its entirety including subsection 15.1, and by replacing it with the following section and subsections:

9. Section 15 – OFFICER POWERS OF ENTRY

15.1 An Officer, in accordance with the powers of entry set out in section 435(1) and 436(1) of the *Municipal Act 2001*, may enter onto land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:

a) any requirements of this by-law and/or the conditions of any permit issued thereunder.

b) any direction or order issued by the municipality, under this by-law.

c) a condition of a license issued under this by-law.

d) any court order, issued pursuant to section 431 of the *Municipal Act 2001*.

10. SECTION 16 – EFFECTIVE DATE is deleted and renumbered as Section 23 – EFFECTIVE DATE.

11. The following sections and associated subsections shall be inserted after Section 15 – OFFICER POWERS OF ENTRY:

SECTION 16 - POWER TO REMOVE SIGNS: NON-COMPLIANT OR SAFETY

16.1 An Officer may immediately remove and impound any sign found erected, displayed, stored, or otherwise found upon City lands that does not comply with this By-law or other City approval.

16.2 An Officer may enter, remove and impound any sign on private lands which is not in compliance with the by-law and for which a notice has been issued and has not been fully complied with in either the timeframe provided or in the manner required.

16.3 Notwithstanding any requirement to provide a notice and time to comply prior to removing a non-compliant sign, where the Officer has reason to believe that due to a sign's location, operation, or other circumstance, that a potential health and safety risk exists to the public, including use by vehicles or pedestrians, or such a risk is likely to develop, the Officer may enter the property and take whatever steps the Officer feels appropriate to abate any such risks,

including causing the sign to be immediately removed and impounded or relocated at the owners expense.

16.4 Where an Officer removes an unlawful sign pursuant to subsections 16.1 or 16.2, the Municipality is not liable for any damages to the sign that might occur during removal and impoundment nor shall it be liable for any other losses, including advertising revenue, and further, the owner and any other persons responsible for the sign, shall be liable for all costs and fees to remove and impound any such signs.

16.5 Where an Officer removes or relocates a sign under subsection 16.3 related to public health and safety, the Municipality is not responsible for any damages to the sign that might occur during removal nor shall it be liable for any other losses, including advertising revenue, and the owner and any other persons responsible for sign, shall be liable for all costs and fees to relocate, remove and impound any such signs, except no storage fees shall be charged until after the third (3rd) day following the notification of the removal.

16.6 Where an Officer removes an unlawful sign under subsections 16.1 or 16.2, the Municipality will attempt to notify the apparent owner of the sign, where located on public property without clear ownership visible, or send notice to the owner of private lands where a sign was removed, including the contact information for recovery, and any applicable costs/fees required to be paid.

16.7 Where an Officer removes a sign pursuant to a health and safety concern under subsection 16.3, the Municipality shall send notice to the owner of property advising of contact and recovery information, including any applicable costs/fees required to be paid.

12. SECTION 17 - DISPOSAL UNUSABLE/UNCLAIMED SIGNS

17.1 Any signs removed by the City, under authority of this By-law that are suitable for reuse shall be stored for thirty (30) days for recovery by owner; unclaimed signs will be discarded or destroyed without compensation to any person.

17.2 Any person(s) wanting to recover any such sign(s) in the City's possession must prove ownership and pay all outstanding fees/charges owing within 30 days or they will have been deemed to have surrendered the property.

13. SECTION 18 - SERVICE OF ANY NOTICE OR ORDER

18.1 Any notice or order may:

- (a) be delivered in person to an Owner or occupant, at the address of lands that are subject of the order or left with an inmate therein that is over that apparent age of eighteen years; or
- (b) may be sent registered mail to the last known address supplied to the City's tax record and shall be deemed to be delivered on the fifth (5th) day after the date mailed; or
- (c) may be posted in a conspicuous place on the property or placed in any open mail receptacle in proximity to the main entrance and shall be deemed to be delivered on the seventh (7th) day after being affixed/deposited; a copy shall also be sent the owners last known address.
- (d) may deliver in person or by registered mail, as set out above, to the applicant or Agent who requested the related permit, by signing an application.

14. SECTION 19 - OBSTRUCTION OF OFFICER PROHIBITED

19.1 No person, including the Owner, shall impede, interfere or obstruct an Officer in the execution of their duties or in the inspection of property required under this By-law, by doing any act, or refusing an Officer's direction, including refusing or impeding an Officer request or attempt for access to enter and inspect any property or structure thereon, except those actual areas used as a dwelling unit.

19.2 An Officer may be accompanied for an inspection by any person they believe qualified to assist in any manner for the purpose of inspection.

19.3 It is an Offence for any person to obstruct an Officer in the discharge of their duties.

15. SECTION 20 - OFFENCE AND PENALTY

20.1 Any person who fails to comply with any requirement of this By-law is guilty of an offence, and shall, upon conviction, be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.

20.2 Any person who contravenes a provision of this By-law is also subject to a system of fines authorized by section 429 of the *Municipal Act, 2001*, and all contraventions of this by-law are designated as continuing offences for each day or part day they continue.

20.3 Every person who is convicted of an offence is liable to a minimum fine of three hundred dollars (\$300) and a maximum fine of five thousand dollars (\$5,000) for the first offence and a maximum fine of ten thousand dollars

(\$10,000) for each subsequent convictions under the By-law, to the maximum prescribed in the *Municipal Act 2001*.

20.4 Where a person who is not a corporation is convicted of multiple offences the total fine for all convictions shall not exceed five thousand dollars (\$5,000) for the first day of any continuing offence, but each subsequent day shall be treated as a subsequent conviction and be subject to the penalties ascribed in this By-law for subsequent convictions.

20.5 Where a corporation is convicted of a second and subsequent convictions, the minimum fine shall not be less than five thousand dollars (\$5,000) for each subsequent conviction to a maximum fine of one hundred thousand dollars (\$100,000).

16. SECTION 21 - ADDITIONAL COURT ORDER

21.1 Where a conviction has been entered under this By-law, the court may make an order, pursuant to s. 431 of the *Municipal Act*, prohibiting the continuation or repetition of the offence by the person convicted.

17. SECTION 22 – GENERAL PROVISIONS

22.1 In the event of any conflict between this By-law and any other by-law of the City, the more restrictive shall prevail unless the context requires otherwise.

22.2 Should any provision of this By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

18. SECTION 23 – EFFECTIVE DATE:

19. Upon passing, SCHEDULE “A” to By-law Number 135-1992, is deleted.

20. This By-law shall come into force and take effect on the date it is passed.

Enacted and passed this 18th day of December, A.D. 2023 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Ken Boshcoff

Mayor

Dana Earle

Deputy City Clerk