

Amendments to Bylaw No. 9730, The Private Crossings Over Ditches Bylaw, 2020

ISSUE

Bylaw No. 9730, *The Private Crossings Over Ditches Bylaw, 2020* (Bylaw) requires cost sharing between the City of Saskatoon (City) and private property owners for non-compliant ditch crossings where the City is constructing drainage improvements. While the Bylaw was created for City wide use, the Bylaw currently only includes cost sharing criteria in respect to non-compliant crossings in residential neighbourhoods. This report proposes amending the Bylaw to identify the criteria for cost sharing for non-compliant crossings in commercial and industrial areas. This report also proposes expanding the requirement to obtain ditch crossing permits.

RECOMMENDATION

That the Standing Policy Committee on Environment, Utilities and Corporate Services recommend to City Council that:

1. The proposed amendments to Bylaw No. 9730, *The Private Crossings Over Ditches Bylaw, 2020*, as outlined in this report, be approved; and
2. The City Solicitor be requested to prepare the appropriate amendments to Bylaw No. 9730, *The Private Crossings Over Ditches Bylaw, 2020*.

BACKGROUND

The CN Industrial neighbourhood, particularly the area south of Circle Drive bounded by Brand Road and Lorne Avenue, has had ongoing drainage issues for many years. This area does not have traditional underground storm sewers but relies on overland ditch and culvert drainage. Over time, the overland drainage path has become compromised due to erosion, sediment infilling the ditches and culverts, and landscaping activities. The City plans to restore the drainage path, install upgraded infrastructure, and provide a dedicated drainage outlet to the storm pond south of the railway tracks as part of the CN Industrial Drainage Improvement Project (Project). The intent would be to use the Bylaw as amended to provide for cost sharing for ditch crossing construction for non-compliant crossings in the CN Industrial Neighbourhood during 2023 and 2024. While the Project is specific to the CN Industrial Neighbourhood, it is intended that the amended Bylaw could be applied generally to all commercial and industrial areas where overland ditch drainage improvements are planned.

DISCUSSION/ANALYSIS

The City held a public engagement event on November 22, 2022, where businesses and property owners were invited to a come and go event to ask questions and receive information about the Project. As part of that engagement, attendees were provided information regarding proposed changes to Bylaw No. 9730 for ditch crossing reconstruction. The discussion at the meeting involved construction timelines, access

concerns during construction, and the proposed cost sharing methodology. While the meeting attendees that are potentially required to cost share were not in favour of the proposed methodology, higher support was received for the project to proceed as it is needed for the neighbourhood.

Twenty-seven properties are within the construction footprint for ditch crossing and drainage improvements in the 2023-2024 Project area. Of the 27 properties (42 total ditch crossings), 20 property owners (27 ditch crossings or 64%) would be required to cost share for non-compliant ditch crossing reconstruction. Standard ditch crossing cost sharing amounts will be calculated using asphalt surface material for reconstruction and actual costs will be based on the project tender contract. All crossings will be reconstructed to the existing width and material unless otherwise requested by the property owner for cost savings purposes.

The main criteria of the proposed cost sharing are summarized below. Further details are provided in Appendix 1.

- For all existing compliant crossings:
 - The City will pay for 100% of the ditch crossing construction (crossing and culvert).
- For existing non-compliant ditch crossings:
 - If a crossing does not have a culvert installed for drainage, then the property owners pay for 100% of the costs to supply and install the culvert.
 - If a crossing is wider than the maximum width permitted with an existing culvert installed for drainage, the City will pay for 100% of the crossing reconstruction costs up to the maximum permitted crossing width (culvert and crossing). The remaining non-compliant crossing and culvert width will be cost shared between the City (60%) and property owner (40%).
 - If a crossing is wider than the maximum width without a culvert installed for drainage, the City will pay for 100% of the crossing material reconstruction costs up to the maximum permitted crossing width. The remaining non-compliant crossing width will be cost shared between the City (60%) and property owner (40%). The culvert is the responsibility of the property owner (100%).

Additionally, the requirement to obtain permits will be expanded. Currently permits are only required for installing private crossings. This requirement should be expanded to clarify that permits are required for the construction, alteration, or removal of private crossings, ditches, or culverts.

The following housekeeping amendments are also recommended:

- References to section 361 of *The Cities Act* should be updated to refer to section 361.1, the new section of *The Cities Act* that authorizes this type of deferral program. References to section 244 of *The Cities Act* are similarly no longer needed and should be repealed.
- The “whereas clauses” of the Bylaw should be repealed as they refer to sections of *The Cities Act* that are no longer relied on as authority to offer this type of deferral

program. The “whereas clauses” were originally included to clarify the authorities being relied on to enact the Bylaw; however, clarification is no longer necessary given the new section 361.1 of *The Cities Act*.

FINANCIAL IMPLICATIONS

The Project is expected to cost \$6.9M with the estimated savings in reimbursement through the cost sharing methodology being \$0.1M (1.5%).

Property owners in commercial and industrial neighbourhoods would be offered the same deferral program that is already offered to property owners in residential areas. The deferral program allows property owners to add the costs of City-performed work to their tax rolls. It is intended to be cost neutral meaning there is no loss to the City by offering the deferral program.

OTHER IMPLICATIONS

The City sent out a communication information package to the neighbourhood and property owners detailing the proposed cost sharing method in March 2023. Notice was provided regarding this report and instruction if stakeholders wanted to speak at the committee meeting or provide comments to the report.

The Project is part of the City’s Natural Infrastructure Fund (NIF) application through the Government of Canada, which is awaiting approval. Costs recovered through the non-compliant ditch crossing reconstruction cost sharing methodology (e.g., the property owner costs) will not be included in the agreement between the City and Government of Canada.

The Project is proceeding in 2023-2024 regardless of the bylaw amendments due to the NIF agreement schedule. If not approved, the project scope would be reduced to be within the NIF agreement budget, and no deferrals of costs would be permitted for owners of commercial or industrial property. Similarly, if NIF application is not successful, the project scope would be reduced to fit within the approved capital budget.

NEXT STEPS

Upon approval by City Council, the City Solicitor will prepare the appropriate amendments to the Bylaw. The Administration would implement the ditch crossing cost sharing methodology as per the Bylaw update.

APPENDICES

1. Industrial and Commercial Site Crossing Reconstruction Cost Sharing Criteria
2. Example Calculations for Non-compliant Crossing Cost Sharing
3. CN Industrial Neighbourhood Drainage Improvement Project (2023-2024) Map

Report Approval

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