

City Council

Notice of Motion

MM22.2	ACTION			Ward: 11
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Credible Maximum Fines for Offences Contrary to Toronto Municipal Code - by Councillor Dianne Saxe, seconded by Councillor Jon Burnside

** Notice of this Motion has been given.*

** This Motion is subject to referral to the Executive Committee. A two-thirds vote is required to waive referral.*

Recommendations

Councillor Dianne Saxe, seconded by Councillor Jon Burnside, recommends that:

1. City Council direct the General Manager, Transportation Services, to report to City Council by the first quarter of 2025 with recommendations for credible maximum fines, and whether to authorize charges against corporate officers and directors, for serious breaches of the offence provisions in the Municipal Code chapters that Transportation Services enforces, including Municipal Code Chapter 743, Streets and Sidewalks, Use of, and former Toronto Municipal Code Chapter 313, Streets and Sidewalks, subject to the maximum penalties allowable under applicable provincial statutes.
2. City Council direct the City Manager to report to City Council by the first quarter of 2025 with recommendations for maximum fines, and whether to authorize charges against corporate officers and directors, for serious breaches of other chapters of the Municipal Code, other than the chapters that Transportation Services enforces, subject to the maximum penalties allowable under applicable provincial statutes.

Summary

Transportation Services is responsible to enforce Municipal Code Chapter 743, Streets and Sidewalks.

A young woman was tragically killed on Bloor Street in July 2024 close to a construction bin that was blocking the bike lane without a permit. Transportation Services issued several Provincial Offences Act tickets to the companies allegedly responsible for the bin, but these tickets will cost the companies as little as \$200. Due to Council's failure to set a credible maximum fine for breaches of Chapter 743, or to authorize charges against officers and directors, Transportation Services could not do much more. This result is grossly inadequate, and shocks the conscience of the community.

It also reveals that Toronto has no consistent, coherent approach to penalties for breaches of its Municipal Code, nor any explicit rationale for its inconsistencies.

The City of Toronto Act gives Council unfettered authority to set a maximum fine, up to \$100,000, for serious breaches of the Municipal Code. However, where Council has not specified a maximum fine, the default maximum for even the worst offence by the worst offender is set at \$5,000 by the Ontario Provincial Offences Act.

This \$5,000 Provincial Offences Act maximum has remained unchanged for many decades, and is an insignificant deterrent for most businesses. This ceiling may be adequate in minor cases, and for those of limited means, but is far too low to deter offences by those who gain financially from their offence. Accordingly, most provincial statutes have set much higher fine maximums for their regulatory (non-criminal) offences. Ontario sets maximums such as \$6 million/day for individuals (plus jail) or \$10,000,000/day for corporations under s. 187 of the Environmental Protection Act, or \$1.5 million for individuals (plus jail) or \$2,000,000 for corporations under s. 66 of the Occupational Health and Safety Act. Vancouver sets maximum fines such as \$1,000,000 under s. 46 of its Air Quality Management Bylaw 1082, and \$200,000 under s.11 of its Tipping Fee and Solid Waste Disposal Regulation 379.

Council has established maximum fines of \$100,000 in many chapters of the Toronto Municipal Code, such as Chapters 349 (Animals); 354 (Apartment Buildings); 417 (Dust); 423 (Environmental Reporting and Disclosure); 447 (Fences); 497 (Heating); 546 (Licencing of Vehicles for Hire); 547 (Licensing and Registration of Short-term Rentals); 575 (Multi-Tenant Houses); 591 (Noise); 632 (Property, Vacant or Hazardous); 667 (Residential Rental Property Demolition and Conversion Control); 681 (Sewers); 693 (Signs); 742 (Sidewalk Cafes, Parklets and Marketing Displays); 760 (Municipal Land Transfer Tax) and 813 (Trees). Chapter 629 (Property Standards) authorizes corporate fines of up to \$1,500,000. In some Chapters, Council has explicitly provided that corporate officers and directors may be charged for the offence, which is a critically important provision for increasing corporate compliance; for unspecified reasons, others are silent.

For offences on streets and sidewalks, where vulnerable road users are most at risk of injury or death (Chapter 743), Council has taken no action. No maximum fine has been set and charges against officers and directors are not provided for.

This inaction sends an important message to the courts, to potential offenders, and to the community. When charges are laid, judges determine the fine that is actually imposed, taking into account the circumstances of the offender and the circumstances and consequences of the offence. One important factor is the range of permissible fines, which gives the judge a clear message about the seriousness of the prohibited act and why it matters to the community. Higher maximum fines, combined with laying charges when warranted, are key tools in achieving higher levels of compliance.

Prohibited acts on city roads and sidewalks can have very serious consequences, as illustrated by this tragic case. The people of Toronto rightfully expect the city to be willing and able to punish serious offences appropriately and in proportion to the circumstances. It is therefore time for Council to restore credible deterrence to Municipal Code Chapter 743, Streets and Sidewalks, Use of, and former Toronto Municipal Code Chapter 313, Streets and Sidewalks, by setting a substantial maximum fine for offences contrary to these bylaws, subject to the maximum fine allowable under the applicable provincial statutes, and to consider authorizing charges against corporate officers and directors.

Council should also ask staff to recommend credible maximum fines, and whether to authorize charges against corporate officers and directors, for other serious breaches of the Municipal Code, especially where no credible maximum fine has been established, such as Chapters 363 (Building Construction and Demolition); 415 (Development of Land); 433 (False Alarms); 463

(Firearms); and 548 (Littering and Dumping), or where the responsibility of officers and directors has not yet been addressed.

Background Information (City Council)

Member Motion MM22.2

(<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-248998.pdf>)