

# COUNCIL REQUEST FOR DECISION

**MEETING DATE:** August 22, 2022

**SUBMITTED BY:** D. Melvie, General Manager, Community and Protective Services

**PREPARED BY:** C. Chisholm, Manager, RCMP Administration and Enforcement Services

**REPORT TITLE:** Bylaw No. 1135-2022 - Amendments to Bylaw No. 767-2011 – Business Licence Bylaw (1st Reading)

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## EXECUTIVE SUMMARY

This report brings forward proposed amendments to Business Licence Bylaw No. 767-2011 on the subject of possession of an unattached catalytic converter without a permit.

## RECOMMENDATION

That Council give Bylaw No. 1135-2022 – Amendments to Bylaw No. 767-2011 – Business Licence Bylaw first reading.

## COUNCIL HISTORY

This item was first presented to Committee-of-the-Whole on January 24, 2022. On that date, the Committee was invited to give initial feedback on possible updates to Traffic Bylaw on January 24, 2022. This included a proposed amendment that made it an offence to be in possession of an unattached catalytic converter without lawful authority. Bylaw No. 1135-2022 is largely drafted in response to that feedback.

## BACKGROUND / RATIONALE

This item was first presented to Committee-of-the-Whole on January 24, 2022, as a proposed amendment to the Traffic Bylaw. As it relates to the regulation of trade in a consumer item, this is now proposed as an amendment to the Business Licence Bylaw.

### *Catalytic Converter Theft*

Underground trade in catalytic converters is unregulated and evidently, lucrative. Thefts have increased significantly in Leduc and other municipalities in Alberta. While the Province introduced scrap metal legislation in November 2020 requiring sellers provide identification when selling catalytic converters, the rate of thefts of catalytic converters has not slowed down in Leduc. In 2019, there were 17 occurrences of catalytic converter theft in Leduc. In 2020, the number of occurrences rose significantly to 73 thefts. As of November 2021, there were 65 reported thefts in that year. Note that these are reported occurrences and it is not uncommon to have multiple offences at a commercial location. The lack of an identifiable victim significantly impacts the police in solving thefts of catalytic converters and typically, a thief gets \$200 to \$400 for each stolen scrap catalytic converter.

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There is very little reason why somebody would have in their possession a catalytic converter unless they are in the business of automotive repair. The RCMP have come across individuals with catalytic converters in their possession and have been unable to deal with what appears to be an obvious theft.

To better manage trade of catalytic converters, an amendment to the Business Licence Bylaw is being proposed so that it would be an offence to carry a catalytic converter, without permit, that is not attached to a vehicle. A permit would be obtained free of charge at the RCMP Detachment (a responsibility delegated by the City Manager). Individuals who can demonstrate ownership, as well as businesses with valid business licenses for automotive repair or parts supply/transport would be effectively exempt. A significant fine of \$1000 per catalytic converter was chosen to act as a deterrent.

There are a few cities in the US that have recently introduced such legislation, however, there appears to be no equivalent in Canada at this time despite interest from other municipalities in the region.

While the proposed amendment does not impede an individual from having an unattached catalytic converter if they can produce the permitting documentation or demonstrate the required ownership or authorization, there is some concern that this amendment treads into areas of federal jurisdiction, particularly criminal law. However, the proposed catalytic converter provisions are a means of regulating trade – a matter within the municipality's purview. Further, the Courts have recently upheld regulatory provisions that have a dual jurisdictional aspect to their character. In *Smith et al. v. St. Albert (City)*, 2014 ABCA 76, the Court of Appeal upheld Bylaw restrictions on the sale and display of certain drug paraphernalia, notwithstanding a finding that "... the essential character of the Bylaw is about suppressing conditions likely to lead to the commission of all types of crime that may ultimately affect public order and safety in the community..." (para.32).

The RCMP in Leduc are very supportive of this proposal.

### **STRATEGIC / RELEVANT PLANS ALIGNMENT**

Amendments to the Business Licence Bylaw relate to Goal One - a City where people want to live, work and play and promotes a safe and healthy community.

### **ORGANIZATIONAL IMPLICATIONS**

#### **ADMINISTRATION:**

RCMP Administrative personnel would be responsible for issuing permits at the RCMP Detachment. It is anticipated that few permits will be issued.

#### **RISK ANALYSIS: FINANCIAL / LEGAL:**

As with all Bylaws, there is always the risk of an individual requesting a trial and the City bearing the cost relating to prosecution of the bylaw. This proposed amendment is believed to be a first in Canada.

#### **IMPLEMENTATION / COMMUNICATIONS:**

A communications strategy will be required in order to educate the public on the amendments.

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### ALTERNATIVES:

1. Make changes to the proposed amendments.
2. Increase educational awareness to our community and seek cooperation from the public in crime prevention methods that reduce the theft of catalytic converters.
3. Lobby Provincial and Federal Governments regarding aftermarket exhaust products in addition to adding additional legislation that targets the theft and resale of catalytic converters.

### ATTACHMENTS

Updates to Traffic Bylaw No. 878-2014 (from Committee of the Whole January 24, 2022)

Draft Bylaw No. 1135-2022 final