



ADMINISTRATIVE REPORT

Report Date: May 27, 2014
Contact: Rick Cheung
Contact No.: 604.873.7028
RTS No.: 10560
VanRIMS No.: 08-2000-20
Meeting Date: July 8, 2014

TO: Vancouver City Council
FROM: Fire Chief/General Manager of Fire and Rescue Services
SUBJECT: Amendments to Ticket Offences By-law

RECOMMENDATION

- A. THAT Council amend the Ticket Offences By-law by adding certain violations of the Fire By-law as violations enforceable by the Municipal Ticket Information (MTI) system.
- B. THAT the Director of Legal Services be instructed to bring forward amendments to the Ticket Offences By-law generally in accordance with Appendix A.

REPORT SUMMARY

Certain offences of the Fire By-law are related to conduct by a person and not related to a specific property address. Certain Fire By-law provisions can be more efficiently enforced by use of the MTI system instead of a system of re-inspections. The MTI system was used successfully for Fire By-law infractions during the 2010 Winter Olympics. Staff recommends that Council authorize the Fire Chief and the Police to use the MTI system for specific Fire By-law offences.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

- In January 2010, Council approved the 2010 Winter Games By-law 9962 which included provisions to enforce certain violations of the Fire By-law using the MTI for the duration of the Olympic and Paralympic Games.
- Through the City's Fire By-law, the City regulates the health and safety of persons, and fire protection of buildings and properties in the City.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The Fire Chief/General Manager of Fire and Rescue Services recommends approval of the foregoing.

REPORT

Background/Context

The City uses the court system to enforce its non-parking By-laws. Specific by-law violations can be prosecuted through the court system using one of two methods:

1. Long form Information; or
2. Municipal Ticket Information (MTI)

MTIs can be issued for any by-law violations specified in the Ticket Offences By-law. The Ticket Offences By-law designates those authorized to issue the MTI and the fine amount.

MTIs are issued by the approved Officer and served on the alleged offender at the time of the offence. The MTI details the offender, the type and location of the offence and the fine amount.

The MTI system streamlines prosecution by requiring offenders who wish to challenge the MTI to file a formal notice of dispute within 14 days of the offence. If no dispute is filed the offender is deemed to be guilty of the offence charged and the specified penalty is automatically imposed. It is therefore imperative that an MTI be completed properly.

MTIs which have been disputed are forwarded to the City Prosecutor's Office for prosecution. The officer who issued the MTI must forward a report supporting the MTI charge to the Prosecutor's office. The court registry mails the disputant a trial date, eliminating the need for the City Prosecutor's office to approve the charge, type and swear the Information (charging document) and personally serve the court summons on the disputant.

Once set for trial, a disputed MTI is prosecuted in the same manner as a long form Information. If the disputant is convicted the specified fine amount is imposed. The court does not generally have discretion to raise or lower the fine or impose a compliance order as it does following conviction on a long form Information.

Many local governments in the Lower Mainland utilize MTI's for enforcement of Fire By-law offences. Examples are Richmond, City of North Vancouver, District of North Vancouver, and Surrey.

Many local governments also utilize By-law Adjudication. By-law Adjudication is an alternative process for local governments to manage by-law infractions where disputes are presided over by an adjudicator rather than in court. However, this process is intended for straightforward and minor offences.

Staff recommends that Fire By-law violations should not be enforced by By-law Adjudication for a number of legal reasons that are complex. By-law Adjudication is used by the City only for Parking offences under the Street and Traffic By-law. For serious violations of City By-laws that affect fire and life safety, such as the Fire By-law, Legal Services recommends enforcement by either long form Information or MTI. Where an MTI ticket is disputed by the ticket recipient, the full weight and authority of the Provincial courts should be provided for prosecution under an MTI. The process of evidence collection and presentation is complex and Legal Services advises that such evidence should be presented in a court of law.

MTIs with outstanding fines are forwarded to Legal Services Collections.

The current Ticket Offences By-law provides for designated by-law enforcement officers, inspectors and Police Officers to issue Tickets for offences under the Animal Control By-law, Health By-law, License By-law, Noise Control By-law, Street and Traffic By-law, and Water Shortage By-law. Although used successfully for the duration of the Winter Games in 2010 to regulate certain provisions of the Fire By-law, the current Ticket Offences By-law does not contain any provision for enforcing the Fire By-law. As part of the new Fire By-law review and update project currently underway, staff has identified that the MTI process will be an invaluable enforcement tool for the Fire By-law.

Strategic Analysis

Currently, enforcement of the Fire By-law is initiated using a Notice of Violation written at the time of inspection and given to the operator or owner of the premises for immediate correction. For example, an exit door from a building may be obstructed, or equipment may have been installed without the required permits. The inspector typically follows up the violation notice within 30 days and, depending on the nature of the violation, a re-inspection fee of \$200 may be charged. More serious or repeated violations result in a Fire Chief's Order to have the situation rectified. If the Order has not been complied with, the case is then referred to Legal Services for prosecution using the long form Information. In extraordinary circumstances, a file will be referred directly to Legal Services for prosecution without first having a Fire Chief's Order issued. This method of enforcement is effective in many cases and will continue to be used.

The MTI system provides another option for the Fire Chief to resolve many issues in fire and life safety. The MTI will provide better enforcement in a number of ways.

The immediacy of being served an MTI will more effectively alert the owners and operators to the seriousness of the situation. For example, in residential buildings, or in restaurants and licensed beverage establishments, a concern of locked exit doors can be dealt with by personally serving the owner or operator, who will be present during the inspection, an MTI for every infraction. Under the current construct, the seriousness of a fire and life safety infraction loses its profile when the consequence is the receipt of an invoice for a re-inspection which is delivered by mail.

Most provisions of the Fire By-law relate to fire safety in buildings or premises for which the long form Information or the proposed MTI system will be used. Other Fire

By-law provisions relate to conduct of persons and not to any property address or property owner. Provisions such as illegal use of fireworks on city streets, or the dangerous use of fireworks on other public spaces such as school grounds cannot be regulated through a process of Notice of Violation, re-inspections, and then prosecution. Enforcement by MTI in this case, when the Information is served personally to the offender at the time of the offence, will be more effective.

Similarly, other areas are ill-fitted to using a re-inspection type methodology for enforcement - an example is overcrowding in a club or at an event where a fire inspector would direct the organizer to immediately mitigate the hazardous situation and typically will not leave the scene until the number of people is reduced. Normally the event will be over by the time a re-inspection would be conducted. Thus the current method of enforcement does little to deter an organizer from overcrowding the premises in the first place. Enforcement by MTI, when the Information is served to the offender at the time of the offence, will be more effective.

Implications/Related Issues/Risk (if applicable)

Financial

Revenue

There are approximately two thousand provisions in the Fire By-law. MTI's will largely be used for situations where a Notice of Violations and subsequent re-inspection fees are inappropriate, impractical or ineffective such as the violations discussed above. There will possibly be a small increase in revenue to the City in this area; however, the increase is expected to be minimal. Staff expects approximately 100 to 200 MTIs per year will be issued.

Costs

The cost to implement the MTI system for Fire will be minimal. The City already has the infrastructure to process the MTIs. MTI ticket books will be printed, as is standard for all other City departments that issue MTIs, by the Revenue Services Department.

Training of the fire inspectors on the proper methods of writing an MTI would be required. The training would be provided in-house by the Legal Services Department.

Savings

Although the amount of time and resources will be the same for the fire inspector and the City Prosecutor when an MTI is disputed, savings will be realised on the MTIs that are not disputed. The amount of time and resources required by the fire inspector to consolidate and prepare all the files will be saved when the majority do not need to proceed to prosecution. This will free up time for other prevention activities.

Human Resources/Labour Relations

There are no implications for Human Resources.

Legal

An amendment to the Ticket Offences By-law will be brought forward after Council approves the recommendation.

CONCLUSION

The Ticket Offences By-law provides for many of the City's by-laws to be enforced using the MTI system. Staff recommends Council authorize Legal Services to bring forth amendments to the Ticket Offences By-law to add certain violations of the Fire By-law to be enforceable by MTIs.

* * * * *

BY-LAW NO. _____

**A By-law to amend Ticket Offences By-law No. 9360
regarding certain offences pursuant to the Fire By-law**

The Council of the City of Vancouver, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions and schedules of By-law No. 9360.
2. In Section 1.2, Council :
 - (a) adds, in the appropriate alphabetical order:

“Fire Chief” means the person appointed by Council from time to time as Fire Chief for the city, and includes any person appointed as a local assistant within the meaning of section 6 of the Fire Services Act”;

and
 - (b) repeals the definition for “tables”, and adds:

“tables” means every table set out in this By-law following section 2.6;”
3. In Section 2.6, Council strikes out “or Water Works By-law” and replaces it with the phrase “Water Works By-law, or Fire By-law” .
4. After Table 7, Council adds:

**“Table 8.1
Fire By-Law**

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
Fire Chief	Activity creating life safety concerns	2.1.2.2.(1)a)	\$500.00
	Fire doors held open	2.2.2.4.4)	\$500.00
	Accumulate combustible materials	2.4.1.1.1)	\$500.00
	Accumulate combustible materials in service area	2.4.1.1.(2)a)	\$500.00
	Accumulate combustible materials in means of egress	2.4.1.1.(2)b)	\$500.00
	Light or maintain outdoor fire without permit	2.4.5.1.1)	\$500.00
	Fail to use/inspect/maintain approved Commercial Cooking	2.6.1.9.2)	\$500.00

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
	Equipment and exhaust		
	Exceed Occupant Load	2.7.1.3.4)	\$500.00
	Fail to maintain egress	2.7.1.6.1)	\$500.00
	Exit doors not readily openable without the use of keys or similar devices	2.7.2.1.5)	\$500.00
	Fail to illuminate exit lighting/signs	2.7.3.1.2)	\$500.00
	Smoking or open flame in tent/air-supported structure	2.9.3.3.1)	\$500.00
	Fail to provide portable fire extinguisher	6.2.1.1.1)	\$500.00
	Fail to inspect/test/maintain/recharge portable fire extinguisher	6.2.4.1.1)	\$500.00
	Fail to maintain fire alarm/voice communication system	6.3.1.1.1)	\$500.00
	Fail to inspect/test/maintain automatic sprinkler system	6.5.1.1.1)	\$500.00
	No smoke alarm in public building	2.1.3.3.1)	\$500.00
	Fail to install/inspect/test/maintain a smoke alarm	2.1.3.3.2)	\$500.00

**Table 8.2
Fire By-Law**

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
Fire Chief	Sell fireworks without a permit	5.8.2.2.1)	\$500.00
Police Officer	Sell fireworks to a person under 19 years of age	5.8.2.2.2)	\$500.00
	Point fireworks at any person/animal/building/motor vehicle	5.8.2.2.3)	\$500.00
	Possess or discharge fireworks by a person under 19 years of age	5.8.2.2.(4)	\$500.00
	Sell firecrackers, bottle rockets or roman candles	5.8.2.3.1)a)	\$500.00
	Sell fireworks to any person not holding a valid family fireworks permit	5.8.2.3.1)b)	\$500.00

