

# RR-2(a)

## CITY OF VANCOUVER

### ADMINISTRATIVE REPORT



CITY OF VANCOUVER

Report Date: February 27, 2008  
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Meeting Date: March 11, 2008

TO: Vancouver City Council

FROM: Project Civil City (PCC) Commissioner in consultation with the General Manager of Community Services, the City Engineer and the General Manager of Legal Services

SUBJECT: Enforcement Review

#### RECOMMENDATION

THAT Council endorse the recommendations outlined in the attached By-Law Enforcement and Enhanced Civil Order report (Appendix A) and:

- i) Direct staff to report back on by-law amendments to expand the use of Municipal Information tickets (MTIs) and graduated penalties by May 2008;
- ii) Request the Project Civil City Commissioner to formally notify the Provincial government of the City's request for immediate changes to Provincial legislation as outlined in this report and direct staff to report back on the proposed changes once discussions with Provincial officials are complete;
- iii) Direct the Project Civil City Commissioner to seek endorsement of the immediate Provincial legislative changes outlined in this report from the Lower Mainland Local Government Association (LMGLGA) and Union of British Columbia Municipalities (UBCM); and
- iv) Direct staff to initiate discussions with key stakeholders and the Province on the proposed longer-term changes for report back with a progress report in six months.

## **CITY MANAGER'S COMMENTS**

The City Manager supports the foregoing and notes that the City Manager's Office will continue to work closely with the Project Civil City Commissioner on the next phase of the enforcement review work which includes a review of the City's fine collection processes.

## **COUNCIL POLICY**

In December, 2006, City Council approved the Project Civil City initiative with goals to achieve greater civility and public order through addressing homelessness, the drug trade, aggressive panhandling and increasing the satisfaction of citizens with the City's response to disorder complaints.

## **SUMMARY and PURPOSE**

Project Civil City's Agenda for Action includes the objective of reviewing the City's enforcement practices and recommending changes to by-laws, fines and enforcement practices that would lead to greater compliance.

This report briefly summarizes the 'By-Law Enforcement and Enhanced Civil Order' report attached as Appendix A. The report outlines changes to City by-laws and Provincial enabling legislation recommended by the Project Civil City Commissioner in consultation with the Enforcement Advisory Committee which includes key City staff and community stakeholders.

Council approval of some changes to City by-laws permitted under the Vancouver Charter is recommended including increasing minimum fines for a variety of by-law infractions, expanding the application of the Municipal Ticket Information (MTI) process and adopting graduated penalties for MTIs. The by-law changes for new fine minimums are presented for immediate action by Council in a companion report.

This report also recommends that Council immediately request a number of changes to Provincial legislation. These include changes to permit the Insurance Corporation of BC (ICBC) to collect fines, and to increase the by-law maximum fine to \$10,000.

It is also recommended that Council direct staff to continue to work with the Provincial government and other stakeholders on longer-term changes to enabling legislation.

## **BACKGROUND**

In November, 2007, Council adopted the 'Project Civil City Progress Report and Agenda for Action' which outlined three areas of work towards the goal of a more civil city: Supporting Homeless and Vulnerable People, Citizen Engagement and Achieving Order. The latter included an examination of the City's by-law, fines and enforcement practices to ensure the most effective framework for achieving public order. The results of the initial phase of this work, reviewing the City's by-laws and fine levels, are outlined in the attached report. The next steps in this work will involve taking a closer look at the City's fine collection and enforcement practices.

The review of City by-laws has been undertaken in consultation with the Project Civil City Enforcement Advisory Committee, which includes business and community representatives, as well as key City staff. A list of Committee members is included in Appendix A of the attached 'By-law Enforcement and Enhanced Civil Order' discussion paper. The following briefly summarizes the recommendations in this document.

Process improvements were identified and have already been implemented during the course of the review including:

- mailing By-law Violation Notices to registered property owners instead of attempting to locate them and hand deliver them in person;
- increased cross-departmental co-ordination on enforcement including co-ordination between Engineering and Property Use on solid waste management offences impacting both public and private property;
- a recently developed By-law Investigation and Enforcement course for City staff provided by the City Prosecutor's Office, Legal Services and Community Services to ensure effective enforcement and follow-up;
- staff are also planning to bring forward by-law amendments to shorten the timeframe in which the City may clean garbage from private property at the expense of the owner.

## DISCUSSION

The attached report presents some changes to the City's by-laws that are permitted under the Vancouver Charter and can proceed immediately. With respect to Provincial legislative changes, the report also outlines a number of strategic considerations that were taken into account in determining which changes to request immediately - and which require more discussion with stakeholders and the Province before making the formal request. For example, considerations such as whether the proposed change would affect Vancouver only or be Province wide, potential effects and savings for the Provincial court system, and possible alignment with other municipalities were taken into account. It is recommended that Council endorse the recommended immediate changes to Provincial legislation and direct staff to initiate discussions with the Province for a report back to Council once complete. In addition, it is recommended the Project Civil City Commissioner discuss these changes at the Lower Mainland Local Government Association (LMLGA) and at the Union of British Columbia Municipalities (UBCM). The report also recommends that Council direct staff to report back on the longer-term changes once further discussions with stakeholders and the Province with a progress report in six months.

The following summarizes the recommendations made in the attached discussion paper:

### *1) Recommended Immediate Changes Under the Vancouver Charter*

1. **Amend a variety of City by-laws to increase minimum fines.** For most by-law offences an increase to \$250 is proposed. An increase of the minimum fine to \$500 is proposed for more serious offences, such as failing to comply with a court order and where an offender has caused or allowed an unsafe condition. The proposal includes

by-laws regulating lands and buildings, public disorder, businesses, park and animal control. These are outlined in more detail in a companion report.

2. **Expand the list of City by-laws to which the Municipal Ticket Information (MTI) process applies.** The MTI pilot project is near completion. It has demonstrated that a MTI ticket is an effective by-law enforcement tool primarily because the offender is served at the time of the offence which eliminates the time and cost of personal service after the offence has occurred. City staff is developing a list of additional offences for which MTIs may be used.

Staff will be reporting on this in May of this year. Council should note that the MTI pilot was undertaken without the benefit of an appropriate computer tracking system. Expanding the use of MTIs will require a substantial investment in new technologies. However, the cost will likely be offset by increased fine revenue. This will be the subject of a separate report.

3. **Adopt graduated penalties for appropriate by-laws enforced by MTI.** Graduated penalties provide a reduction in the fine payable if payment is made quickly and voluntarily following the offence. Following a request by the City of Vancouver, the Province recently authorized the use of graduated penalties for MTIs. The upcoming report to Council on the MTI pilot project will recommend adoption of this very useful tool to encourage voluntary payment of fines.

## *II) Recommended Immediate Requests for Changes to Provincial Legislation*

1. **Give ICBC the power to collect fines on behalf of the City.** A more effective and efficient way to collect fines is essential to ensure the deterrent effect of a court imposed fine is realized and some share of enforcement costs are recovered. The ability for ICBC to collect fines on behalf of the City would greatly increase the voluntary payment rate.
2. **Give ICBC the power to refuse Insurance and Driver's Licence Renewal.** ICBC can refuse to issue or cancel insurance or review Driver's Licenses for failure to pay fines under a number of motor vehicle related statutes as well as the *Liquor Control and Licensing Act*. Failure to pay spousal maintenance and support can also lead to cancellation of a Driver's Licence under the Family Maintenance Enforcement Act. The power to cancel or refuse to issue insurance or a driver's licence for failure to pay by-law fines related to motor vehicle infractions would ensure collection of unpaid fines.
3. **Increase the maximum by-law fine to \$10,000.** With a few exceptions, the current maximum fine in Vancouver for most offences is \$2,000. This amount is often an insufficient deterrent and is frequently seen as the cost of doing business. It is recommended that the City seek an amendment to the Vancouver Charter raising the maximum fine to \$10,000 noting that, in practice, the maximum fine is reserved for the worst offences.

4. **Create a new Breach of Recognizance Offence.** The *Offence Act* permits a justice to suspend the passing of sentence and place an offender on a recognizance, with terms, for up to six months. The Vancouver Police Department would like to see an offence added to the *Offence Act* for breach of a recognizance. This would be a useful tool in concert with access to Community Court and referral to support services for addiction issues and to find housing.
5. **Permit service of summon(ses) by mail.** Personal service of summonses is time consuming, expensive and often ineffective. It is recommended that the City seek amendments to the *Offence Act* to permit service of summon(ses) by registered mail to the registered owner of a motor vehicle, property or registered office of a business corporation. Removing the requirement for personal service and allowing mailed summonses would greatly reduce costs to the court, the registry and the City.
6. **Permit Evidence by Certificate.** It is often difficult to schedule witnesses (VPD Officers and City staff) for trials and considerable time is spent giving evidence in court. Similar to Provincial Violation Tickets it is recommended that, for straightforward matters, such as parking tickets, these witnesses be enabled to provide a written certificate of evidence thereby freeing up staff and court time and costs.

### III) *Recommended Longer-Term Changes to Provincial Legislation*

1. **Provide for City staff to be appointed as JPs.** For the purposes of Violation Tickets for Provincial Offences, court registry staff are designated as Justices of the Peace (JPs) making the ticket enforcement process more efficient and reducing the burden on the court. It is recommended that the City propose to the Province and the Office of the Chief Judge that City staff be appointed as JPs with the power to fix and adjourn dates and set payment plans. Given the concern about real or perceived conflict, it is not recommended that City staff be given the power to reduce fines.
2. **Provide for Conditions on individual business licenses.** The authority to attach conditions to individual business licences would improve the City's ability to regulate problem businesses and ensure properties and businesses are maintained and operated appropriately.
3. **Provide for the imposition of public hazard clean up and inspection costs.** Marijuana grow operations and clandestine labs often require extensive clean up and cost the City more than is collected through inspection and permit fees. In addition, a purchaser may be unaware that the property was formerly used as a grow-op or lab. It is recommended that the Vancouver Charter be amended to recover the full costs of inspection and clean up and simplify the process for bringing these matters before Council.

## FINANCIAL IMPLICATIONS

The changes recommended in this report include increasing both the minimum and maximum fine levels as well as ICBC fine collection. Currently, annually, the city collects approximately \$11,000,000 in parking ticket revenue and \$234,000 in Police issued tickets. The City also collects approximately \$700,000 dollars annually in by-law fines through the courts.

The proposed increases to the minimum fines are expected to realize an increase of approximately \$240,000 annually and \$160,000 for 2008 subject to the implementation of these increases by May 1, 2008. In the future, further significant increases in fine revenue should also be realized if the requested changes in the process for serving of summonses is approved and ICBC fine collection proceeds.

There are also costs associated with some of these recommendations. In particular, permanently adopting and expanding the MTI process will require a technological infrastructure, the cost of which has yet to be determined and will be reported upon in May of 2008 in a separate report.

Further details of any revenue increases and offsetting expenditures will be provided later when staff report back on the proposed changes once discussions with Provincial officials are complete.

## CONCLUSION

The recommended changes in this report are the first steps in strengthening the City's enforcement framework. While the changes to Provincial legislation may take some time to accomplish, in the meantime, as noted in this report, ongoing opportunities for more efficient and effective approaches to gain compliance are being taken. The next steps will involve engaging with the current staff efforts to review the City's fine collection and the deployment of inspection and enforcement services in the community.

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# BY-LAW ENFORCEMENT AND ENHANCED CIVIL ORDER

*REPORT OF THE PROJECT CIVIL CITY COMMISSIONER  
IN CONSULTATION WITH THE  
ENFORCEMENT ADVISORY COMMITTEE*

*FEBRUARY 2008*



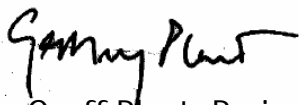
## LETTER FROM GEOFF PLANT, PROJECT CIVIL CITY COMMISSIONER

Vancouver is known as an attractive and liveable city. It is, for the most part, a civil city - that is, a city where citizens can expect to go about their lives in an environment in which the laws that guide behaviour are adhered to and respected. In some cases, serious underlying issues such as homelessness, mental health and addiction are the root causes of public disorder. Recent efforts by the City, in partnership with the Province, are beginning to address these fundamental issues through the provision of supported housing and effective mental health and addiction services. These efforts are a critical part of an effective response to disorder issues such as the open drug trade and aggressive panhandling.

However, the City's enforcement framework deals with a much broader range of issues as well. It governs many aspects of urban life such as parking, noise, building safety, garbage disposal and animal control. The City's by-laws and enforcement practices set expectations and a bottom line for behaviour. This framework is key to maintaining the safety, vitality and civility of our urban environment.

In November, 2007, as part of the *Project Civil City Progress Report and Agenda for Action Report*, presented to Council, I undertook to review the City's enforcement framework including the by-laws associated with public order, fines, fine collection, and the effectiveness of the City's enforcement practices. This report contains the recommendations from the first phase of this work and includes the results of a review of by-laws and fine levels. I have been working closely with City staff and the Vancouver Police Department in the preparation of this report. I have also had excellent input and advice from the *Project Civil City Enforcement Advisory Committee* which includes stakeholders from community and business organizations as well as key staff. I would like to extend my sincere thanks to the Committee members and the City staff who contributed their knowledge and expertise to the recommendations in this report. In particular I would like to thank the City's Legal Services department for their advice and support.

Some of the recommended by-law changes that can be accomplished under the City's current enabling legislation will be referred to Council for their direction to proceed with changes to the regulations. However, many of the recommendations in this report involve changes to Provincial legislation. I will be seeking Council's direction to pursue these recommended changes. This will require more work and discussion with various constituents and stakeholders as well as with Provincial officials. In addition, I will be proceeding with the next phase of the enforcement review work which will include a review of the City's fine collection process and enforcement practices.



Geoff Plant, Project Civil City Commissioner



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## SUMMARY OF RECOMMENDATIONS

### A. Immediate Changes by the City

1. **Increased Minimum Fines.** Increase minimum fines to \$250 for most by-law offences and to \$500 for more serious offences.
2. **Expanded Use of Municipal Ticket Informations (MTIs).** Expand the list of offences for which MTIs may be used.
3. **Graduated Municipal Ticket Information (MTI) Penalties.** Adopt graduated penalties for MTI offences to encourage voluntary payment of fines.

### B. Immediate Requests for Changes to Provincial Legislation

1. **ICBC By-law Fine Collection.** Seek amendment to the *Offence Act* to give ICBC the power to collect by-law fines on behalf of the City.
2. **ICBC Refusal of Insurance and Driver's Licence Renewal.** Seek amendments to the *Insurance (Vehicle) Act* and the *Motor Vehicle Act* to give ICBC the power to cancel or refuse to issue insurance or drivers' licences for failure to pay City by-law fines related to motor vehicle infractions.
3. **Increased Maximum By-law Fines.** Seek amendment to the Vancouver Charter to increase the maximum by-law fine to \$10,000.
4. **Authority to Issue Appearance Notices.** Seek amendment to the Offence Act regulations to include By-law offences as offences for which an appearance notice may be issued by a police officer.
5. **Breach of Recognizance Offence.** Seek an amendment to the Offence Act to create a charge of breach of recognizance, punishable by a fine and/or a term of incarceration.
6. **Summons by Mail.** Seek an amendment to the Offence Act to permit service of summons by registered mail to the registered owner of a motor vehicle, the owner of real property, and the registered office of a business corporation.
7. **Evidence by Certificate.** Seek an amendment to the Vancouver Charter or the Offence Act Forms Regulation allowing evidence by Certificate for specified parking offences.

C. Longer-term Changes to Provincial Legislation

1. **Appointment of City Staff as Justices of the Peace.** Pursue the appointment of City Staff as JPs with the power to fix and adjourn trial dates and set payment plans for City by-law violations.
2. **Power to Impose Conditions on Individual Business Licences.** Seek amendment to the *Vancouver Charter* to allow conditions to be placed on individual Business Licences.
3. **Power to Impose Public Hazard Clean up and Inspection Costs on Property Owners.** Seek amendments to the *Vancouver Charter* to allow the costs of inspecting and cleaning up marijuana grow ops and clandestine drug labs to be added to property taxes.

## INTRODUCTION

Vancouver is a great city in which to live, work and play and the majority of our citizens enjoy a high quality of life. This quality of life is supported by by-law enforcement, which provides a framework in which community standards are set for the benefit of all citizens. The rate of voluntary compliance, and the City's ability to enforce compliance with by-laws when necessary, are issues that require attention to ensure liveability in the City.

The Enforcement Advisory Committee established under Project Civil City includes a range of stakeholders and experts concerned with public order. A list of Committee members is attached as Appendix A. The Committee has examined the full range of enforcement and compliance tools, including City by-laws and Provincially legislated enforcement procedures, and has identified immediate and longer term priorities for improvement and change.

### *Effective By-Law Enforcement*

By-laws are designed to protect public welfare. They can only do so if they are fairly and effectively enforced by a process that meets the following criteria:

- Citizens must have confidence that by-law offenders will be charged.
- The process must be efficient with minimal delay.
- The penalty must be of sufficient magnitude to deter the public from committing by-law infractions.
- The penalty must be enforceable.
- The process must be proportional, that is, the amount of process should be proportionate to the value, complexity and importance of the case.

The current enforcement system does not meet these criteria. From the mechanisms to bring defendants into the court system through to enforcement of court-imposed fines, the system is cumbersome, expensive, inefficient and ineffective. This is of particular concern with by-laws regulating life safety issues, where it is imperative that we have the tools to deal quickly and efficiently with non-compliance.

Improvements that are needed are discussed in the remainder of this paper under the following headings:

- Immediate Changes by the City
- Immediate Requests for Changes to Provincial Legislation
- Longer-term Changes to Provincial Legislation

### *The Current By-law Enforcement Process*

Charges for a by-law infraction can be initiated either by a Municipal Ticket Information (MTI) or a Long Form Information (LFI).

The MTI is served by the issuing enforcement officer on the defendant, usually at the time of the offence. The defendant has 14 days to file a dispute. A trial is only held if the defendant files a dispute and attends the hearing. If s/he does not, a conviction and imposition of the specified fine is automatic. Generally, MTIs are very efficient, using less administration and enforcement time and are often regarded more seriously by defendants as they are 'tickets', not just a 'notice'.

The LFI may be preceded by a By-law Violation Notice (BVN), which is a notice that the City believes an infraction has been committed and legal charges may be initiated if a voluntary fine is not paid.

The BVN is also served on the defendant by the issuing enforcement officer; however, if the defendant does not voluntarily pay the indicated fine, a LFI must be sworn and a summons to court must be issued and served personally on the defendant. If the defendant is not served prior to the specified court date, the trial cannot be held and a summons must be re-issued and served personally on the defendant.

Despite the more cumbersome procedure for LFI, it is in some cases the preferred process because it gives the court the discretion to impose a higher fine (within the allowable range) and, most importantly, to impose an Order pursuant to s. 333C of the *Vancouver Charter* directing that the breach be remedied.

A number of changes to Provincial and City legislation are proposed to streamline the existing by-law enforcement process.

### *Strategic Considerations*

Some of the changes recommended in this Report are within the power of the City to implement, while others require changes to Provincial legislation which entails policy work and political support. This section sets out some strategic considerations.

#### *Changes that the City can Make Immediately*

It is recommended that the City proceed immediately with changes it can effect on its own.

#### *Changes Requiring Amendment to Provincial Legislation*

Many of the changes put forward in this Report require amendment to Provincial legislation. There are deadlines for proposing amendments for the upcoming session, as well as for preparing the required Cabinet Submission and legislative drafting instructions. Additions to the legislative agenda generally need a fairly long lead-

time. However, alerting the Provincial government to the need for these changes as soon as possible is advised.<sup>1</sup>

For a number of proposals, the recommendation could be achieved either by amendments to the *Vancouver Charter* or the Provincial *Offence Act*. Because amendments to the *Offence Act* would have Province-wide effect, where possible we have focused on amendments to the *Vancouver Charter*. Another strategy is to suggest changes to the *Vancouver Charter* as a pilot, providing an opportunity to test the effectiveness of the reform.<sup>2</sup> In addition, consideration has been given to those changes that do not require extensive policy analysis or drafting by Provincial government officials.<sup>3</sup>

#### *Changes Requiring Amendments to Regulation*

Changes to regulations are made by Order-in-Council and do not require the approval of the legislature. However, they do require Cabinet approval and so, while these types of amendments will be easier to achieve than statutory changes, support of the relevant ministries and/or the Premier's office is necessary.

#### *Provincial Objectives*

The Province has a strong interest in decreasing the amount of registry and court time dedicated to the prosecution and enforcement of City by-law offences. Wherever possible, proposals that require Provincial action should highlight increased efficiency and voluntary compliance.<sup>4</sup>

#### *Office of the Chief Judge*

The Office of the Chief Judge (OCJ) of the Provincial Court must be consulted on any reforms related to court process and administration and is generally supportive of changes that would streamline procedures in Provincial registries and court and lead to more efficient use of court resources without compromising basic fairness principles.

#### *Consultation with Other Municipalities and other Stakeholders*

There are a number of proposed changes to Provincial legislation that will be relevant to other municipalities. These changes may be facilitated by consultation with the Union of B.C. Municipalities and groups such as the BC Association of Chiefs of Police and the BC Chamber of Commerce.

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<sup>1</sup> The Mayor has written to the Premier alerting the Province to the City's interest in pursuing a number of the changes outlined in this report.

<sup>2</sup> For example, see the discussion concerning ICBC by-law fine collection, ICBC refusal of insurance and driver's licence renewal, and service of summonses by mail.

<sup>3</sup> For example, see the discussion of increased maximum fines.

<sup>4</sup> For example, see discussion of mailed summonses, use of Appearance Notices and certificate evidence, ICBC fine collection and the appointment of City staff as JPs.

**A. Immediate Changes By the City**

**1. Increased Minimum Fines**

*Background*

Many by-laws include minimum fines and in many cases the court imposes the minimum as a standard penalty. The City has the power to set minimum fines. City staff have conducted a review of the fine ranges in all City by-laws which indicates minimum fines vary widely across by-laws and are generally too low to act as a deterrent. In addition, the current minimum fines do not come close to offsetting the City's costs of enforcement.

*Proposal*

Amend a variety of City by-laws to increase minimum fines. Increase minimum fines to \$250 for most by-law offences and to \$500 for more serious offences. Appendix B sets out a list of current minimum fines and the amount proposed by City staff for the new minimum fine.

*Strategic Considerations*

The City can implement this option on its own. It will increase deterrence and fine revenue.

**2. Expanded Use of Municipal Ticket Informations (MTIs)**

*Background*

The City is currently nearing the end of a pilot project testing MTIs as a means of enforcement. (See Appendix C for a list of the offences for which an MTI can currently be issued.) Under the MTI process, a ticket is served on the offender at the time of the offence. This avoids the cost in time and money to effect personal service of a summons after an LFI is sworn.

The pilot has demonstrated that the MTI process is an effective by-law enforcement tool. While the MTI process is not, by itself, the answer to the full range of compliance and enforcement issues faced by the City, it is a useful tool in all cases where a fine would serve as an effective penalty. City staff are developing a list of recommended additions to the list of offences for which an MTI could be issued. There are costs that need to be investigated associated with upgrading the City's technology to accommodate MTIs on a broader and permanent basis.

*Proposal*

Expand the list of municipal by-laws to which the MTI process applies.

*Strategic Considerations*

This option can be implemented by the City. It would broaden the range of available tools for by-law enforcement and decrease the use of court resources.

### 3. Graduated Municipal Ticket Information (MTI) Penalties

#### *Background*

Following a request by the City, the Province recently authorized the use of graduated penalties for MTIs. Graduated penalties reduce the fine payable in exchange for prompt payment. An upcoming report to Council on the MTI pilot project will recommend adoption of this very useful tool to encourage voluntary payment of fines.

#### *Proposal*

Adopt graduated penalties for appropriate by-laws.

#### *Strategic Considerations*

The City can implement this option on its own. It will promote voluntary payment of fines and decrease the use of court resources.

### B. Immediate Requests for Changes to Provincial Legislation

#### 1. ICBC By-law Fine Collection

##### *Background*

All unpaid fines are collected using the Small Claims enforcement process. This process is time consuming, expensive, and a burden on both registry and judicial resources. As a result, there is a low fine collection rate. A more effective and efficient way to collect fines is essential to ensure the deterrent effect of a court imposed fine is realized and some share of enforcement costs are recovered. Some initial research by staff has revealed that the Provinces of Alberta, Ontario and Nova Scotia collect fines on behalf of municipalities.

ICBC's governing legislation gives it the authority to collect fines on behalf of government for Provincial Violation Tickets issued under the *Offence Act* in relation to a large number of statutory offences.<sup>5</sup>

##### *Proposal*

Seek amendments to the *Offence Act* to give ICBC the power to collect by-law fines on behalf of the City.

##### *Strategic Considerations*

Implementation of this recommendation would have an enormous impact on the ability of the City to collect by-law fines. It would create a much more efficient

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<sup>5</sup> These offences include, for example, examples under the *Solid fuel Burning Domestic Appliance Regulation*, the *Aquaculture Regulation*, *Fisheries Regulation*, *Forest Act* and a myriad of other statutes.



collection process and reduce the City's use of court resources. However, implementation of this recommendation would require legislative amendments that would have an impact on ICBC operations. It is recommended that the City propose a pilot project that would allow the Province to test and evaluate this proposal.

## 2. ICBC Refusal of Insurance and Driver's Licence Renewal

### *Background*

ICBC can cancel or refuse to issue insurance for failure to pay fines under a number of motor vehicle related statutes. ICBC can also cancel or refuse to issue a driver's licence for failure to pay fines under those same motor vehicle related statutes as well as the *Liquor Control and Licensing Act*. Failure to pay spousal maintenance and support can also lead to cancellation of a driver's licence under the *Family Maintenance Enforcement Act*.

### *Proposal*

Seek amendment to the *Insurance (Vehicle) Act* and the *Motor Vehicle Act* to give ICBC the power to cancel or refuse to issue insurance or drivers' licences for failure to pay City by-law fines related to motor vehicle infractions.

### *Strategic Considerations*

Implementation of this recommendation would also have a significant impact on the ability of the City to collect fines, and would reduce the City's use of court resources. Because it would also have an impact on ICBC, it is recommended that the City propose a pilot project to the Province with respect to this proposal.

## 3. Increased Maximum By-law Fines

### *Background*

With a few exceptions, the current maximum by-law fine for City by-laws is \$2,000, one fifth of the maximum penalty of \$10,000 available for all other British Columbia municipalities and regional districts. A check of municipalities in the Lower Mainland and throughout the Province indicates that for some offences, the maximum fine is up to the permitted maximum of \$10,000. The maximum fine has not kept pace with the significant increase in the cost of living over the last 30 years. It no longer provides deterrence to either the individual accused or to the community at large. The maximum fine available also significantly impacts the appropriate level for a minimum fine. The "step-up" principle in sentencing calls for gradual increase in penalty imposed on successive conviction. A low maximum mandates a relatively low minimum in order to accommodate the step-up for a subsequent conviction.

Public safety is put at risk by a low maximum fine. The maximum is so low that a fine is seen as the cost of doing business: it is cheaper to pay the fine than to comply with the law. This leads to an increase in breaches of all City by-laws, including the Fire,

Health, Building, and Standards of Maintenance By-laws. Vancouver has significant numbers of large older residential buildings, some of which house our most vulnerable citizens and are subject to frequent prosecutions under the Fire By-law. The City's ability to gain compliance in a heavily populated urban centre is impacted by the size of the monetary penalty that can be imposed for non-compliance.

A significant penalty sends a strong signal regarding the community standard. Over time, this will result in an increase in voluntary compliance with by-laws.

*Proposal*

Seek an amendment to s. 333 of the *Vancouver Charter* making the maximum fine \$10,000.

*Strategic Considerations*

While this requires legislative amendment, which can be a complex and time consuming process, the amendment itself is straightforward and does not require much policy analysis or drafting time. The fact that the City is seeking consistent treatment with other municipalities strengthens its case. This is a small amendment, with potentially large impact. Because the legislative session is imminent, quick action on this and other amendments to Provincial legislation is essential.

#### 4. Authority to Issue Appearance Notices

*Background*

The *Offence Act* section 39(b) permits an enforcement officer to issue an appearance notice for contravention of an enactment specified in the *Offence Act* regulations. The Appearance Notice requires the alleged offender to attend court on the noted date. No further service is required. A person who fails to comply with an Appearance Notice commits an offence and a warrant may be issued for his or her arrest.

*Proposal*

Seek amendment to the *Offence Act* regulations to include By-law offences as offences for which an appearance notice may be issued by a police officer.

*Strategic Considerations*

Implementation of this recommendation would create a much quicker and more efficient process to bring alleged offenders to court, and decrease costs to the Province, the Vancouver Police department and the City by eliminating the need to issue and serve summonses for offences. It is recommended that the City propose a pilot project that would allow the Province to test and evaluate this proposal.

## 5. Breach of Recognizance Offence

### *Background*

The *Offence Act* permits a justice to suspend the passing of sentence and place an offender on a recognizance for up to six months. The recognizance may include terms, such as keep the peace and be of good behaviour, report to a probation officer, and area restrictions, which may assist to prevent recidivism and improve rehabilitation. The use of this section is particularly appropriate for offenders who are unable to pay a fine. If the offender breaches the recognizance the only consequence is a return to court to be sentenced; but because the offender is still unable to pay a fine this means realistically there is no consequence. The Vancouver Police Department would like to see the creation an offence of breach of recognizance under the *Offence Act*. This offence would be punishable by a fine and/or a term of incarceration. In concert with access to Community Court for support with addiction issues and to find housing, this new offence should reduce breaches of recognizance.

### *Proposal*

Seek an amendment to the *Offence Act* creating a new offence for breach of a recognizance.

### *Strategic Considerations*

Because this change could only be achieved by amendment to the *Offence Act* it would have province-wide effect and apply to all breaches of *Offence Act* recognizances.

## 6. Summons by Mail

### *Background*

Personal service of summonses is time consuming, expensive and often ineffective. Many defendants actively evade service, others move before a summons is issued, and when a summons must be reissued there is an associated cost in time and money for the court registry and the City. In addition, the delay undermines the connection between the offence and its consequences.

### *Proposal*

Seek the addition of a section to Part 17 of the *Vancouver Charter* to include a provision to permit service of summons by registered mail to the registered owner of a motor vehicle, the owner of real property and the registered office of a business corporation.

### *Strategic Considerations*

Removing the requirement for personal service and allowing mailed summonses would greatly reduce court and registry time and costs to the City. It would additionally reduce delay and ensure court time was used as scheduled because once service is

effected the trial can proceed. This recommendation may be controversial because there must be confidence that the offender has been properly notified of the offence. Also, Provincial Violation Tickets must be served personally and the Province may be reluctant to allow a lower standard of service for City violations than for Provincial violations. For that reason, the proposal is limited to situations where the address for mailed service is inherently accurate and requires registered mail so the offender must acknowledge receipt of the summons. It is also recommended that the proposal be piloted in Vancouver through changes to the *Vancouver Charter*, rather than an amendment to the *Offence Act* which would have province wide effect. It is also recommended that the City discuss the proposal with the Office of the Chief Judge before putting it forward to the Province.

## 7. Evidence by Certificate

### *Background*

Given the difficulty of scheduling witnesses for trials and the considerable court and officer's time required to give evidence in court, it would be much more efficient to permit officers to give their evidence by a written Certificate for straightforward offences such as parking infractions.

### *Proposal*

Seek an amendment to either the *Offence Act* or to Part 17 of the *Vancouver Charter* allowing evidence by Certificate

### *Strategic Considerations*

The *Offence Act* permits such Certificates for the prosecution of Provincial Violation Tickets. There is also a provision for the defendant to apply to have the Officer attend in person if required for a fair trial. Allowing this process for some by-law proceedings would free up court, police and enforcement officer time, and reduce the number of trials requested by defendants with no defence but the hope that their case will be dismissed because the officer will not be able to attend court. An amendment to the legislation with more limited scope, the *Vancouver Charter*, should be sought. If the process proves to be effective and fair, it could be adopted Province-wide, through amendments to the *Offence Act*.

## C. Longer-term Changes to Provincial Legislation

### 1. Appointment of City Staff as Justices of the Peace (JPs)

#### *Background*

The court registry currently mails notification of trial dates to defendants who attend without a summons to fix a trial date. This is not personal service and if the defendant does not attend on the scheduled date the trial cannot proceed. As well, some defendants schedule trials simply to ask for a payment plan for the fine.

If City staff were appointed as JPs they would have the authority to schedule a trial date in the presence of the defendant, thereby creating an enforceable trial date. They could also permit fine payment plans.

*Proposal*

Seek to have City staff appointed as JPs with the power to fix and adjourn dates and set payment plans.

*Strategic Considerations*

Current registry procedures are inefficient. The appointment of City staff as JPs to fix and adjourn trial dates and set payment plans would make the enforcement process more efficient and reduce the burden on court and registry staff. It is recommended that discussions with Court Services and the OCJ continue.

## 2. Power to Impose Conditions on Individual Business Licences

*Background*

Section 203(b) of the *Vancouver Charter* authorizes the City to impose different terms and conditions on different groups or classes of businesses. The concern is that most problem businesses result from neglect or poor management on the part of an individual licence holder. The authority to attach conditions to an individual business licence would significantly improve the City's ability to regulate problem businesses without penalizing the majority of responsible business operators. For example, a business licence holder whose neglect of his rental property resulted in a marijuana grow operation might be required to conduct monthly inspections as a business licence condition.

*Proposal*

Seek an amendment to section 203(b) of the *Vancouver Charter* to authorize the imposition of conditions on an individual business licence.

*Strategic Considerations*

This power would greatly assist the City to ensure properties are maintained and businesses are operated appropriately which are key factors in ensuring healthy, safe and vibrant neighbourhoods.

## 3. Power to Impose Public Hazard Clean Up and Inspection Costs on Property Owners

*Background*

Marijuana grow operations and clandestine drug labs present two of the most extreme examples of substantial danger to the public and to those providing clean up services in such situations. City staff and the VPD enforce over 150 grow-ops and labs per year. While the City has special inspection fees for the clean up and retrofitting of

these premises, there are significant costs which are not recovered. The grow-op programs cost approximately \$620K per year (not including VPD costs). Revenue from permit fees and fines averages \$400K annually with a net cost to the City of over \$200K.

*Proposal*

Seek an amendment to s. 336 of the *Vancouver Charter* to permit the City to recover the cost it incurs to inspect and remedy by-law breaches involving marijuana grow-ops and drug labs and add the costs to the tax roll.

*Strategic Considerations*

These proposals require further research and discussion. It is recommended that City staff be requested to report on proposed changes later this year.

## CONCLUSION

Effective by-law enforcement is key to providing and sustaining a civil city. The changes proposed in this report are the beginning of strengthening the City's enforcement framework. The next steps include a review of how the City enforces its by-laws including what more effective and efficient approaches can be developed to enforcement and fine collection as well as what steps local communities and neighbourhood organizations can take to assist.

## Project Civil City Enforcement Advisory Committee Members

Chair: Geoff Plant, PCC Commissioner

Dave Jones, Director, Downtown Vancouver Business Improvement Association  
Bernard Magnan, Assistant Managing Director and Chief Economist,  
The Vancouver Board of Trade  
Chris Taulu, Coordinator of the Collingwood Crime Prevention Office (on behalf of VCPAC)  
Sheryl Williamson-Harms, Community Representative  
Stephen Pearce, VP, Tourism Vancouver  
Jacquie Forbes-Roberts, General Manager, Community Services  
Ellen Gerber, City Prosecutor, Legal Services  
Catherine Kinahan, Litigator, Legal Services  
Warren Lemcke, Superintendent, Vancouver Police Department  
John McKearney, Assistant General Manager/Deputy Chief, Emergency Services,  
Fire & Rescue Services  
Paul Melten, Superintendent 1, Parking Operations & Enforcement, Engineering  
Services  
Patsy Scheer, Assistant Director, Legal Services  
Paul Teichroeb, Chief Licence Inspector, Licences & Inspections  
Tom Timm, General Manager, Engineering Services, City of Vancouver  
Chris Underwood, Engineer, Solid Waste Management  
Barb Windsor, Deputy Chief Licence Inspector, Licences & Inspections  
Ralph Yeomans, Manager, Parking, Operations & Enforcement

Appendix B

TABLES AND NOTES REGARDING MINIMUM, MAXIMUM  
AND CONTINUING FINES AND RELATED MATTERS

TABLE 1  
MINIMUM FINES UNDER BY-LAWS

Column 1 Name of By-law	Column 2 Existing Minimum Fine	Column 3 Proposed Minimum Fine
Animal Control By-law except sections 4.3, 4.4, 4.5, 4.5, 4.7, 4.11, and 4.13	\$250	No change
Animal Control By-law - section 4.3 muzzling aggressive dogs	\$500	No change
Animal Control By-law - section 4.4 no running at bathing beach	\$125	No change
Animal Control By-law - section 4.5 securing aggressive dogs on private property	\$500	No change
Animal Control By-law - section 4.6 limiting number of dogs	\$125	No change
Animal Control By-law - section 4.7 confining dogs in heat	\$125	No change
Animal Control By-law - section 4.11 securing dogs in vehicle	\$125	No change
Animal Control By-law - section 4.13 upsetting or breaking into refuse containers	\$125	No change
Building By-law except for sentences 3.2.2.3.(1), 3.2.2.4.(1), 3.2.2.5.(1), and 3.2.2.6.(1)	\$100	\$250
Building By-law - sentence 3.2.2.3.(1) unsafe condition	\$200	\$500
Building By-law - sentence 3.2.2.4.(1) failure to comply with an order	\$200	\$500
Building By-law - sentence 3.2.2.5.(1) work without permit	\$200	\$500
Building By-law - sentence 3.2.2.6.(1) failure to permit entry	\$200	\$500
Business Premises Regulation By-law	\$100	No change
Business Prohibition By-law	\$0	\$500
City Land Regulation By-law	\$100	\$250
Club Regulation By-law	\$50	\$250
Crossing By-law	\$50	\$250
Elections By-law	\$500	No change
Electrical By-law except for sections 3.1, 3.3(d), 3.5, and 9.1(d)	\$100	\$250
Electrical By-law - section 3.1 installing equipment without a permit	\$200	\$250
Electrical By-law - section 3.3(d) failing to maintain electrical equipment	\$200	\$250
Electrical By-law - section 3.5 dealing with unapproved equipment	\$200	\$250
Electrical By-law - section 9.1(e) failing to comply with an order	\$200	\$500
Encroachment By-law	\$0	\$250
Fines and Penalties By-law	\$50	No change
Fire By-law except for sentences 3.2.7.18.(1), 5.9.1.2.(3), 5.9.1.2.(4), 5.9.1.3.(1), 5.9.1.3.(2), and 5.10.1.1.(1)	\$100	\$500*
Fire By-law - sentence 3.2.7.18.(1) clean up dangerous goods incident	\$250	\$750* see below
Fire By-law - sentence 5.9.1.2.(3) transportation of explosives	\$250	\$750*
Fire By-law - sentence 5.9.1.2.(4) notice of explosives	\$250	\$750*
Fire By-law - sentence 5.9.1.3.(1) quantity of explosives	\$250	\$750*
Fire By-law - sentence 5.9.1.3.(2) quantity of explosives	\$250	\$750*
Fire By-law - sentence 5.10.1.1.(1) method of transporting explosives	\$250	\$750*
Graffiti By-law	\$100	\$250
Graffiti By-law - section 3 none on walls, etc. in street or public place	\$500	No change
Graffiti By-law - section 4 none on walls, etc. adjacent to street or public place	\$500	No change



Graffiti By-law - section 5 owner not to permit adjacent to street or public place	\$500	No change
Granville Mall By-law	\$0	\$250
Health By-law except for section 3.3(c)	\$100	\$250
Health By-law except for section 3.3(c) failing to comply with an order	\$500	No change
Impounding By-law	\$0	\$500
Licence By-law except for sections 10.3,11.4,15.1,16.1(5), 16.1(6), 17.1, 19.3(4), and 25.3	\$100	\$250
Licence By-law - section 10.3 arcade/shooting gallery age and time limits	\$200	\$250
Licence By-law - section 11.4 billiard room time limits	\$200	\$250
Licence By-law - section 15.1 fill viewer enclosed space	\$250	No change
Licence By-law - section 16.1(5) amusement machine time limits	\$200	No change
Licence By-law - section 16.1(6) games room time limits	\$200	No change
Licence By-law - section 17.1 health enhancement centre	\$250	\$500
Licence By-law - section 19.3(4) medical inspection re lodgers	\$500	No change
Licence By-law - section 25.3 social escort service	\$500	\$1,000
Motor Vehicle Noise and Emission Abatement By-law except for section 2.7	\$100	\$250
Motor Vehicle Noise and Emission Abatement By-law - section 2.7 idling motor vehicles other than buses	\$50	\$250
Mountain View Cemetery By-law	\$100	\$250
Noise Control By-law except for sections 11, 11A, 11B, 11C, 16, and 19	\$100	\$250
Noise Control By-law - section 11 bass noise in commercial premises	\$500	No change
Noise Control By-law - section 11A bass noise in commercial premises sharing common wall with residential premises	\$500	No change
Noise Control By-law - section 11B electronic noise in commercial premises	\$500	No change
Noise Control By-law - section 11C electronic noise in commercial premises sharing common wall with residential premises	\$500	No change
Noise Control By-law - section 16 construction outside specified times	\$500	No change
Noise Control By-law - section 19 refuse collection outside specified times	\$500	No change
Parking By-law	\$50	\$250
Parking Meter By-law	\$0	\$60
Private Property Tree By-law	\$500	No change
Secondhand Dealers and Pawnbrokers By-law	\$200	\$250
Security Alarm System By-law	\$100	\$250
Sewer and Watercourse By-law	\$250	\$250
Sign By-law except for sections 6.5 and 7.2	\$100	\$250
Sign By-law - section 6.5 continuing to display sign without a valid permit	\$200	\$250
Sign By-law - section 7.2 failing to comply with an order	\$200	\$500
Single Room Accommodation By-law	\$50	\$500
Solid Waste By-law	\$50	\$250
Standards of Maintenance By-law except for sections 11.1(1), 15.1(1), and 23.3	\$100	\$250
Standards of Maintenance By-law except - section 11.1(1) failing to maintain fire escapes, stairways, balconies, porches, landings	\$200	\$500
Standards of Maintenance By-law except - section 15.1(1) failing to maintain walls, floors, or roof construction	\$200	\$500
Standards of Maintenance By-law except - section 23.3 failing to comply with an order	\$200	\$500
Street Obstruction By-law	\$50	No change
Street Distribution of Publications By-law	\$500	No change
Street and Traffic By-law except for sections 99(2)(a), 20.1(d), 20.1(e), 20.2, 17.6(b), 90(1), 65A(2), 69A, and 99(2)	\$0	See below **
Street and Traffic By-law - section 17.6(b) violation of a traffic sign that restricts parking during event times or to residents as designated on such signs	\$25	See below **
Street and Traffic By-law - section 20.1(d) (see note 5)	\$50	See below*
Street and Traffic By-law - section 20.1(e) (see note 5)	\$50	See below

		**
Street and Traffic By-law - section 20.2 parking restrictions near park, school, church, or residence	\$50	See below **
Street and Traffic By-law - section 65A(2) suspension of parking during snow	\$100	No change
Street and Traffic By-law - section 69A fighting	\$200	\$500
Street and Traffic By-law - section 90(1) (see note 6)	\$100 plus	See by-law **
Street and Traffic By-law - section 99(2) (see note 7)	\$100 plus	\$500
Street and Traffic By-law - section 99(2)(a) (see note 8)	\$50	\$500
Street Tree By-law	\$50	\$250
Street Vending By-law	\$100	\$250
Trailer Courts By-law	\$50	\$250
Untidy Premise By-law	\$100	\$250
Vehicles for Hire By-law	\$100	\$250
Vehicle Licensing By-law	\$75	\$250
Water Shortage Response By-law	\$50	\$250
Water Works By-law	\$50	\$250
Zoning and Development By-law	\$50	\$250

\* The Fire By-law was amended in 2004 to reflect these increases in the minimum fines.

\*\* The Street and Traffic By-law - amendments of specific sections of the by-law are noted above, however, there are also a number of sections of this bylaw that deal with a wide range of violations and have a range of minimum fines. The various sections are also being amended to increase the minimum fines proportionally up to \$500.

List of By-law Offences Currently Enforceable By MTIs

BY-LAW OFFENCE	FINE
s. 3.1 Animal Control By-law--No dog licence	\$250
s. 4.2 Animal Control By-law--Dog off leash	\$250
s. 2.2 Health By-law--Smoking in public place	\$100
s. 2.3 Health By-law--Proprietor permitting smoking	\$300
s. 2.1 Health By-law--Urinating/defecating/expectorating	\$100
s. 3(1) Licence By-law--No business licence	\$150
s. 4 Noise By-law--Objectionable noise	\$150
s. 19 Noise By-law--Refuse collection noise outside of permitted time	\$500
s. 6 Street and Traffic By-law--Disobeying traffic sign/signal	\$100
s. 12(2) Street and Traffic By-law--Jaywalking	\$100
s. 60 Street and Traffic By-law--Riding bicycle on sidewalk	\$100
s. 60D Street and Traffic By-law--Riding bicycle without helmet	\$ 50
s. 69A Street and Traffic By-law--Fighting in public	\$200