

CITY OF VANCOUVER

ADMINISTRATIVE REPORT



CITY OF VANCOUVER

Report Date: February 27, 2008
Author: Carlene Robbins
Phone No.: 604.873.7563
RTS No.: 07043
VanRIMS No.: 08-4000-10
Meeting Date: March 11, 2008

TO: Vancouver City Council

FROM: General Manager of Community Services in Consultation with Project Civil City Commissioner, Director of Legal Services, Chief Constable, City Engineer, Director of Licenses and Inspections, Chief Building Official, Chief License Inspector, City Electrician and Gas Safety Manager

SUBJECT: Increasing the Minimum Fines Set Out in By-laws and Amending Related Provisions of Those By-laws

RECOMMENDATIONS

- A. THAT Council amend the Building By-law No. 9419, Business Premises Regulation of Hours By-law No. 8022, Business Prohibition By-law No. 5156, Mountain View Cemetery By-law No. 8719, City Land Regulation By-law No. 8735, Club Regulation By-law No. 2647, Crossing By-law No. 4644, Electrical By-law No. 5563, Encroachment By-law No. 4243, Gas Fitting By-law No. 3507, Graffiti By-law No. 7343, Granville Mall By-law No. 9272, Health By-law No. 6580, Impounding By-law No. 3519, License By-law No. 4450, Motor Vehicle Noise and Emission Abatement By-law No. 9344, Noise Control By-law No. 6555, Parking Meter By-law No. 2952, Private Property Tree By-law No. 7347, Secondhand Dealers and Pawnbrokers By-law No. 2807, Security Alarm System By-law No. 7111, Single Room Accommodation By-law No. 8733, Solid Waste By-law No. 8417, Standards of Maintenance By-law No. 5462, Street Distribution of Publication By-law No. 9350, Street and Traffic By-law No. 2849, Street Tree By-law No. 5985, Street Vending By-law No. 4781, Ticket Offences By-law No. 9360, The Trailer Court By-law No. 3644, Untidy Premises By-law No. 4548, Vehicle Licensing By-law No. 4021, Vehicles for Hire By-law No. 6066, Water Shortage Response By-law No. 8912, Waterworks By-law No. 4848 and the Zoning and Development By-law No. 3575, generally as set out in Appendix A.
- B. THAT Council repeal the existing Fines and Penalties By-law No. 3043 and enact a new Fines By-law generally as set out in Appendix B.

GENERAL MANAGER'S COMMENTS

The General Manager recommends approval of the foregoing.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

COUNCIL POLICY

There is no applicable Council Policy.

SUMMARY

City Staff recently undertook a review of the minimum fine levels set out in the various by-laws referenced in this report. The review revealed that across the board, fines were inconsistent and were not at a sufficient level to be a deterrent to offenders. It was determined that the fines should reflect the seriousness of the related offences and should send a message to the public and the courts as to how seriously the City views the offences. This report is a companion to the Project Civil City Enforcement Review report.

PURPOSE

The purpose of this report is to request that Council amend the by-laws outlined in Appendix A and B of this report in order to provide an increase in the minimum fines for each by-law. It also requests administrative amendments related to fines and enforcement of several by-laws including the Parking By-law.

DISCUSSION

Staff has undertaken a comprehensive review of the fine range in all by-laws. The review indicated that minimum fines vary widely across by-laws and are generally very low.

The by-laws can be grouped into four distinct categories as follows:

1. *By-laws related to lands/buildings:*

Building, Zoning and Development, Electrical, Standards of Maintenance, Fire, Untidy Premises, Solid Waste and Private Property Tree By-law.

General Intent:

To protect the public, regulate construction and the use of lands and buildings and monitor the liveability and ongoing maintenance of properties.

2. *By-laws related to public disorder:*

Street and Traffic, Granville Mall, Parking Meter, Graffiti, Street Vending, Animal Control, Motor Vehicle, Impound, Noise and Solid Waste.

General Intent:

To regulate the use of public spaces and the conduct of individuals in order to provide a safe and peaceful environment for the public.

3. *By-laws related to business regulation:*

License, Zoning and Development, Secondhand Dealers/Pawnbrokers, Vehicles for Hire

General Intent:

To regulate the operation and proper management of businesses.

4. *By-laws related to the use of park land:*

Parks Control, Animal Control

General Intent:

To regulate the use of park land and the conduct of persons on park land to ensure peaceful enjoyment of the public.

Rationale for the Fine Increases:

The current minimum fines are inadequate, inconsistent and do not come close to offsetting the City's costs of enforcement. They are too low to act as a deterrent.

When a defendant is found guilty of an offence against a by-law, the Judicial Justice of the Peace (JJP) may sentence the offender within the applicable fine range. In many cases the JJP imposes the minimum fine as a standard penalty. An increase in the minimum fines is expected to change behaviour and to restrict discretion of the courts so that a lower fine may not be imposed.

MTI (Municipal Ticket Information) Pilot:

An expansion of the MTI pilot is anticipated in the near future. In order to recoup higher fines through the MTI process, the minimum fine levels in the by-laws must be increased.

The amendments attached request that minimum fines for most by-law offences be increased to \$250. (This would not include parking tickets or like offences which are only being

increased nominally.) An increase to \$500 is requested for more serious offences such as failing to comply with an order and where an offender has caused or allowed an unsafe condition.

In addition, this report requests administrative amendments to various by-laws including the Parking By-law with respect to fines and enforcement proceedings.

FINANCIAL IMPLICATIONS

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.

CONCLUSION

A review of the existing minimum fine structure in City by-laws across the board revealed that the fines are inconsistent and not at a sufficient level to be a deterrent to offenders. It has been determined that the fines should reflect the seriousness of the related offences and should send a message to the public and the courts as to how seriously the City views the offences.

The increased minimum fines outlined in this report will result in an increase in projected revenue for the City and will increase public awareness on the importance of complying with the City's by-laws.

* * * * *

BY-LAW NO. _____

A By-law to amend Building By-law No. 9419,
Business Premises Regulation of Hours By-law No. 8022,
Business Prohibition By-law No. 5156,
City Land Regulation By-law No. 8735,
Club Regulation By-law No. 2647,
Crossing By-law No. 4644, Electrical By-law No. 5563,
Encroachment By-law No. 4243, Fire By-law No. 8191,
Gas Fitting By-law No. 3507, Graffiti By-law No. 7343,
Granville Mall By-law No. 9272, Health By-law No. 6580,
Impounding By-law No. 3519, License By-law No. 4450,
Motor Vehicle Noise and Emission Abatement By-law No. 9344,
Mountain View Cemetery By-law No. 8719,
Noise Control By-law No. 6555,
Parking By-law No. 6059, Parking Meter By-law No. 2952,
Secondhand Dealers and Pawnbrokers By-law No. 2807,
Security Alarm System By-law No. 7111,
Sewer and Watercourse By-law No. 8093, Sign By-law No. 6510,
Single Room Accommodation By-law No. 8733,
Solid Waste By-law No. 8417,
Standards of Maintenance By-law No. 5462,
Street and Traffic By-law No. 2849,
Street Tree By-law No. 5985,
Street Vending By-law No. 4781,
Ticket Offences By-law No. 9360,
Trailer Courts By-law No. 3644,
Untidy Premises By-law No. 4548,
Vehicle Licensing By-law No. 4021,
Vehicles for Hire By-law No. 6066,
Water Shortage Response By-law No. 8912,
Water Works By-law No. 4848, and
Zoning and Development By-law No. 3575
to modify fines for breaches of those by-laws
and related provisions and housekeeping changes

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

Minimum fines and housekeeping

1. In each by-law referred to in Column 1 of Table 1, Council amends each section or table referred to in Column 2 by:
 - (a) striking out the minimum fine, if any, as set out in Column 3;
 - (b) substituting or adding the minimum fine as set out in Column 4;
 - (c) amending the wording as set out in Column 4:

TABLE 1

Column 1	Column 2	Column 3	Column 4
Building	3.2.2.1.(1)	\$100	\$250
Building	3.2.2.3.(1)	\$200	\$500
Building	3.2.2.4.(1)	\$200	\$500
Building	3.2.2.5.(1)	\$200	\$500
Building	3.2.2.6.(1)	\$200	\$500
Business Premises Regulation of Hours	8	\$100	\$250
Business Prohibition	7	\$0	Before "not", add "not less than \$500 and".
City Land Regulation	6	\$100	\$250
Club Regulation	24(1)	\$50	\$250
Crossing	8(b)	\$50	\$250
Electrical	9.3	\$100	\$250
Electrical	9.4	\$200	\$500
Encroachment	16.(1)	\$0	Before "not", add "not less than \$250 and".
Fire	8.3.1.1.(2)		To the list of offences, add, in the appropriate numeric order, "subsection 1.4.4 and sentences 1.4.2.7.(1), 2.4.1.1(1), 2.7.1.3.(4), 2.7.1.6.(1), 6.3.1.1.(1), and 6.5.1.1.(1)".
Gas Fitting By-law			After section 12, add: "12A. Every person who commits an offence against this By-law is punishable on conviction by a fine of not less than \$250.00 and not more than \$2,000.00 for each offence. 12B. Every person who commits an offence of a continuing nature against this

			By-law is liable to a fine not exceeding \$50.00 for each day such offence continues."
Graffiti	11	\$100	\$250
Granville Mall	10	\$0	Before "not", add "not less than \$250 and".
Health	3.4	\$100	\$250
Health	3.4		After "section", add "2.3 or".
Impounding	13	\$0	Before "not", add "not less than \$500 and".
Impounding	3(a) of Schedule A	\$5.00	\$8.00
License	30(2)	\$100	\$250
License	30(4)		Repeal, and substitute: "Despite the minimum fine referred to in subsection (2), every person who commits an offence against section 17.1 is liable to a fine of not less than \$500 for each offence, and every person who commits an offence against section 25.3 is liable to a fine of not less than \$1,000 for each offence."
Motor Vehicle Noise and Emission Abatement	3.2	\$100	\$250
Mountain View Cemetery	12.2	\$100	\$250
Noise Control	20(2)	\$100	\$250
Parking	3.3		Repeal.
Parking			After section 15.1, add: "15.1A Notice of violation 15.1A.1 An inspector or official of the city,

or a by-law enforcement officer, may give notice to any person ordering or directing that person to:

(a) discontinue or refrain from proceeding with any work or using or occupying any land or building or doing anything that contravenes this By-law; or

(b) carry out any work or do anything to bring any land or building into conformity with this By-law; within the time specified in such notice.

15.1A.2 An inspector or official of the city, or a by-law enforcement officer, may serve a notice under this By-law:

(a) by mailing it by registered post to an owner who is the addressee of the notice at the address of the owner shown on the real-property assessment roll

prepared pursuant to the Assessment Act;

(b) by handing it to the person who is the addressee of the notice; or

(c) if the notice refers to real property, by posting it on the real property."

Parking	15.3.1			Repeal, and substitute: "Every person who commits an offence against this By-law is liable to a fine of not more than \$2,000 and not less than \$250 for each offence except for failing to comply with any order, direction or notice given under this By-law in which case the fine is to be not less than \$500."
Parking Meter	14		\$60	
Secondhand Dealers and Pawnbrokers	4.2	\$200	\$250	
Security Alarm System	40	\$100	\$250	
Sewer and Watercourse	8.2(1)	\$200	\$250	
Sign By-law	8.2	\$100	\$250	
Sign By-law	8.3	\$200	\$500	
Single Room Accommodation	6.6	\$50	\$500	
Solid Waste	11.4	\$50	\$250	
Solid Waste	11.4			Before the period, add

			“except that a person who commits an offence against section 11.3(c) is punishable on conviction by a fine of not less than \$500 for each offence”.
Standards of Maintenance	23.6(1)	\$100	\$250
Standards of Maintenance	23.6(2)		Repeal, and substitute: “Despite the minimum fine referred to in subsection (1), every person who commits an offence against section 11.1(1), 15.1(1), 16.1(2), 17, 18, 21.4(a), 21.13(a), 21.13(b), 21.14, or 23.3 is liable to a fine of not less than \$500 for each offence.”
Street and Traffic	103(1)	\$0	Before “not”, add “not less than \$250 and”.
Street and Traffic	103(2)		Repeal, and substitute: “Every person who commits an offence against one of the following provisions of this By-law is liable to a fine of not less than the amount set out opposite each provision: 17.6(b), 17.6(e), 64, and 65.....\$60 17.1 to 17.5 inclusive, 17.6(a), 17.6(c), 17.6(d), 17.6(f), 17.6(g), 17.6A, 17.7, 18.1, 18.2, 18.3, 19.1, 21.1 to 21.7 inclusive, 22.1, 22.4, 23.1, 23.1A, 23.3, and 30(2).....\$9 0 6, 11, 12, 14, 15, 20.1, 20.2, 32 to 46 inclusive, 50, 52,53, 54, 56, 57, 60, 60A to 60F inclusive, 63A, and 65A(2).....\$100

			48.....\$20
			0
			58, 69A, 87, 88, 94(1)(a), 94(1)(d), 94(1)(e), 94(7), 99(1)(b), 99(2)(a).....\$500
Street and Traffic	103(4)	\$100	\$250
Street and Traffic	103(4)(a)	\$10	\$20
Street and Traffic	103(4)(b)	\$20	\$30
Street and Traffic	103(4)(c)	\$50	\$100
Street and Traffic	103(7)	\$100	\$250
Street and Traffic	103(7)(a)	\$100	\$250
Street and Traffic	103(7)(b)	\$100	\$250
Street and Traffic	103(3), 103(5), 103(6), 103(8)		Repeal.
Street and Traffic	103(4)		Re-number as section 103(3).
Street and Traffic	103(7)		Re-number as section 103(4).
Street Tree	12	\$50	\$250
Street Vending	11(a)	\$100	\$250
Ticket Offences	Table 2 - 2.2	\$100	\$250
Ticket Offences	Table 2 - 2.3	\$300	\$500
Ticket Offences	Table 2 - 2.1	\$100	\$250
Ticket Offences	Table 3 - 3(1)	\$150	\$250
Ticket Offences	Table 4 - 4	\$150	\$250
Ticket Offences	Table 5 - 69A	\$200	\$500
Ticket Offences	Table 5 - 60D	\$50	\$100
Trailer Courts	12(1)	\$50	\$250
Untidy Premises	7(1)	\$100	\$250
Vehicle Licensing	21(1)	\$75	\$250
Vehicles for Hire	32(1)	\$100	Delete "\$100.00 for each offence", and substitute "\$250 for each offence except for failing to comply with section 23(19) in which case the fine is to be not less than \$500".

Water Shortage Response	6.2	\$50	Repeal, and substitute: "Every person who commits an offence against this By-law is liable to a fine of not more than \$2,000 and not less than \$250 for each offence except for failing to comply with any order, direction or notice given under this By-law in which case the fine is to be not less than \$500."
Water Works	45(b)	\$50	\$250
Zoning and Development	8.2		Repeal, and substitute: "Every person who commits an offence against this By-law is liable to a fine of not more than \$2,000 and not less than \$250 for each offence except for failing to comply with section 6.8 in which case the fine is to be not less than \$500."

Maximum fines

2. In each by-law referred to in Column 1 of Table 2, Council amends each section referred to in Column 2 by striking out the fine as set out in Column 3, and substituting the fine as set out in Column 4:

TABLE 2

Column 1	Column 2	Column 3	Column 4
Crossing By-law	8(b)	\$500.00	\$2,000
Encroachment By-law	16(1)	One Hundred Dollars (\$100.00)	\$2,000
Impounding By-law	13	One Hundred (\$100.00) Dollars	\$2,000
Parking Meter By-law	14	One Hundred (\$100.00) Dollars	\$2,000
Street and Traffic By-law	103(5)	\$100.00	\$2,000

Street and Traffic By-law	103(8)	\$1,000	\$2,000
Water Works By-law	45(b)	\$500.00	\$2,000

Severability

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of ,
2008

Mayor

City Clerk

EXPLANATION

**A By-law to modify fines for breaches of certain by-laws
and related provisions and housekeeping changes**

The attached by-law will implement Council's resolution of _____ __, 2008 to amend various by-laws listed on the first page regarding fines and other housekeeping matters.

Director of Legal Services
_____ __, 2008

CITY OF VANCOUVER BRITISH COLUMBIA



FINES BY-LAW NO. _____

BY-LAW NO. _____

**A By-law to impose fines for breaches of the
Vancouver Charter or of by-laws that do not specify fines**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

Name of By-law

1. The name of this By-law, for citation, is the "Fines By-law".

Fine for offence

2. A person who:
 - (a) violates any provision of the Vancouver Charter or of a by-law of the city, or does any act or thing which violates any provision of the Vancouver Charter or of a by-law, or suffers or allows any other person to do any act or thing which violates any provision of the Vancouver Charter or of a by-law;
 - (b) neglects to do or refrains from doing anything required to be done by any provision of the Vancouver Charter or of this by-law; or
 - (c) fails to comply, or suffers or allows any other person to fail to comply, with an order, direction, or notice given under any provision of the Vancouver Charter or of a by-law;

for which the Vancouver Charter or by-law, as the case may be, does not provide any punishment is punishable on conviction by a fine of not less than \$250.00 and not more than \$2,000.00 for each offence or to imprisonment for not more than 6 months, or to both.

Fine for continuing offence

3. Every person who commits an offence referred to in section 2 of a continuing nature is liable to a fine not exceeding \$50.00 for each day such offence continues.

Severability

4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Repeal

5. This By-law repeals By-law No. 3403.

Force and effect

6. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of ,
2008

Mayor

City Clerk

