

Report Date: October 6, 2015
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TO: Standing Committee on Planning, Transportation and Environment
FROM: Acting General Manager, Community Services
SUBJECT: Report back on the enactment of a new Nuisance By-law

RECOMMENDATION

- A. THAT Council receive this report for information.
- B. THAT Council direct:
 - (i) The Director of Legal Services to prepare and submit a proposed Vancouver Charter amendment to the Province for the authority to impose service fees to recover the cost of responding to repeated nuisance calls generated by problem properties; and
 - (ii) City staff to report back after the approval of the proposed amendment, on a comprehensive set of regulatory options including the ability to impose service fees to deal with nuisance issues and on the feasibility of re-instating the Crime Free Multi-Housing Program, in collaboration with the Vancouver Police Department.

REPORT SUMMARY

This report responds to Council direction from April 29, 2015 to investigate options for a new nuisance by-law to more effectively address problem premises that generate repeated calls for service. Having done so, staff bring forward two items for Council's consideration. First, Council is to consider requesting an amendment to the Vancouver Charter to allow the City to recover nuisance abatement service fees. Secondly, if the Charter amendments are enacted, staff are to collaborate with the Vancouver Police Department (VPD) on the feasibility of re-instating the Crime Free Multi-Housing (CFMH) Program and to report back on a comprehensive set of regulatory options to deal with nuisance issues.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Section 323 of the Vancouver Charter authorizes Council to enact by-laws respecting nuisances, noise and other matters. Council has exercised these powers to enact different by-laws for various nuisance issues that are currently administered by Property Use Inspections (PUI) and the VPD.

Section 324A of the Vancouver Charter enables Council, by resolution or by-law, to declare any building, in or upon any private or public lands a nuisance or dangerous to the public safety or health and by such by-law or resolution, to order that the building be removed by the owner, agent, lessee or occupier thereof.

Section 334 of the Vancouver Charter allows the City to seek a court order enforcing against a by-law contravention.

On April 29, 2015, Council directed staff to investigate the feasibility and advisability of a new nuisance by-law in conjunction with a CFMH Program, with options to more effectively deal with problem properties that generate repeated calls for service.

CITY MANAGER'S COMMENTS

The Acting City Manager recommends approval of the recommendations contained in this report.

REPORT

Background/Context

The City of Vancouver has the authority to address nuisance concerns through a variety of existing by-laws including the Untidy Premises, Standards of Maintenance, Noise Control, License, Graffiti, Health, Animal Control and Ticket Offences By-laws. The purpose of enacting a new Nuisance By-law would be to impose nuisance abatement service fees. Through this approach, the City would seek to recover the costs associated with inspecting properties that require a high number of inspections due to neighbourhood complaints. The fees are only charged if the complaint is valid if a nuisance or other by-law violation was observed.

Although the City has the authority to charge service fees for false burglar and fire alarms, there is no provision in the Vancouver Charter that authorizes the City to impose service fees to recover the costs associated with nuisance abatement service calls. However, the Province could grant this authority by amending the Vancouver Charter.

Property Use Inspections (PUI) is one of the main groups that regulate nuisance issues such as loud construction or equipment noise, messy yards, dilapidated buildings, graffiti and activities in licensed premises that negatively impact communities. Other nuisance issues such as late and loud party noise, disorderly conduct and so forth are handled by the VPD. PUI and the VPD often work closely together to address these related issues.

Depending on the nature and severity of the nuisance or nuisances; the appropriate current enforcement approach may be applied singularly or as an escalated process. Some of these approaches include:

- Education
- Written notice (letters or orders) to the property owner or licensee to comply
- Multi-departmental inspections (Tactical Team)
- Multi-departmental compliance meetings with the property owner or licensee
- Prosecution for non-compliance through the court system
- Temporary Licence suspensions by the Chief Licence Inspector
- Business Licence Hearings (Council may suspend or revoke licences)
- Court Injunction process (Owner is ordered by a court to comply with a by-law)

- Resolution process (City to undertake repairs or demolish building under Section 324A, Vancouver Charter)

Another effective mechanism that has encouraged compliance in the maintenance of multi-unit residential rental buildings is the online Rental Property Standards Database, implemented in 2013. The public, especially potential renters can check online for outstanding maintenance and fire issues. Property owners are thereby motivated to comply so that they can attract renters for their buildings.

In 2008, the City implemented a Crime Free Multi-Housing (CFMH) Program in an effort to address multiple crime and safety issues in multi-unit residential buildings. A CFMH Coordinator was hired by Licences & Inspections Division to implement the program which consisted of three phases:

- Phase One was a training workshop for resident managers and/or owners.
- Phase Two was a security assessment of the building.
- Phase Three was an annual safety meeting for the residents hosted by the resident manager or owner.

Upon completion of the three phases, the building was certified as a Crime Free Building. At that time, there were approximately fifty buildings in Vancouver that were certified, with about fifty more that were in the process of being certified.

In 2013, VPD brought forward a Freedom of Information and Protection of Privacy Act concern regarding access to crime statistics by the CFMH Coordinator, a non-VPD employee. In order for the program to be successful, it was critical that the CFMH Coordinator was able to work closely with the VPD, with the ability to access crime statistics directly from the VPD's database, PRIME. As a result of the concern, the CFMH Program stalled.

Strategic Analysis

The proposed amendments would not be novel or unique to the City of Vancouver. The Community Charter authorizes all other municipalities to create nuisance abatement service fees. For example, both Abbotsford and Surrey enacted by-laws allowing service fees to be charged on all properties that generate excessive nuisance calls, whereas New Westminster limits it to residential rental buildings. The by-law in New Westminster also includes the authority to impose business licence conditions related to the CFMH Program, and offers a reduced licence fee as an incentive for certified CFMH buildings. Service fees can be imposed after three or more nuisance service calls have been generated and any unpaid service charges at year end can be added to the property taxes as arrears. These cities report that this option is a good enforcement tool.

Table 1 below provides information comparing the by-law differences between the three cities mentioned above.

Table 1 - Comparison of other City by-laws regarding service fees for repeated nuisance calls

	Abbotsford	New Westminster	Surrey
Type of properties	All	Rental Units (residential)	All
# of nuisance calls/time period*	1 or more/24 hour or 3 or more/12 month period	3 or more/12 month period	3 or more/12 month period
Service Fees	Police - \$195/call Fire - various fees** City staff - \$70/hour	Police - \$250/call City staff - \$100/hour Admin. - 10% of total fees	Staff - \$709/response Admin. - \$378/response
Ability to add delinquent fees to property taxes	Yes	Yes	Yes

*# of nuisance calls/time period before nuisance abatement service fees may be charged

**various fees are dependent on the type of incident

City of Abbotsford

The City of Abbotsford amended its Good Neighbour By-law in 2005 to add provisions and fees for excessive nuisance abatement calls from all types of properties. In 2014 fifteen properties were charged with excessive nuisance call fees by the By-law Services Department. However, this figure understates the issue as it does not include nuisance calls administered and charged separately by the Police and Fire Departments.

City of New Westminster

The City of New Westminster enacted the Business Regulations and Licensing (Rental Units) By-law in 2004 to regulate and licence rental units for living purposes. The goal was to better regulate problem rental buildings and be able to bill property owners for repeated nuisance calls. The by-law also includes the authority to impose licence conditions requiring a building owner to undertake a CFMH seminar or implement prescribed management practices to prevent crime and nuisances. In addition, an incentive in the form of a ten per cent discount in business licence fees was offered to owners of certified CFMH buildings.

In 2007, licence conditions requiring property owners to implement specified management practices were issued to thirty-four rental properties and fifteen rental buildings were given nuisance abatement orders. According to the City, these provisions 'greatly improved staff's ability to deal with substandard conditions in rental properties and rental buildings that generate community nuisances and excessive calls for police service'.

Since 2006, the City of New Westminster has recorded a total of thirty-nine properties that were issued nuisance abatement orders and charged a total of \$32,692 in service fees. As of October 2015, there are four properties with active orders. The number of nuisance abatement orders and service charges in New Westminster has declined over the years, in part due to changes in property ownership of problem buildings and improved property management practices.

City of Surrey

On February 2014, Surrey amended its Prohibition of Nuisances By-law to allow for recovery of police and staff costs from owners of properties where there have been repeated nuisance service calls. This provision is regarded by Surrey's regulators as a good enforcement tool, applies to all properties and is not limited to residential rental properties.

To date, nine properties were issued nuisance abatement orders for property owners to comply within thirty days. Out of the nine properties, five complied immediately, while two

others eventually complied. The three remaining non-complying properties owned by the same owner have received three to four nuisance abatement fee charges each month for the past five months. The recovery fees are currently in the range of \$16,000 to \$22,000 plus taxes, per building.

City of Vancouver

The City of Vancouver routinely addresses nuisance issues related to noise, disorderly conduct, unsightly properties, etc. PUI addresses and resolves a number of these nuisance complaints during their normal course of day inspections and occasionally during the late hour inspections.

Generally, most nuisance calls such as loud music and disorderly conduct related to parties occur during the late evenings and early hours of the morning. As such, Vancouver communities are dependent on the VPD to address these nuisances.

Table 2 below indicates the number of properties with three or more nuisance-type calls received in 2014.

Table 2 - Vancouver Police Department Nuisance-type Service Calls for 2014

# of calls	3 to 10	11 to 100	More than 100	Total: 3 or more
# of properties*	1,018	162	2	1,182

*# of properties does not include parks, hospitals, community centres, schools, train stations, libraries and other similar types of properties.

Based on the VPD statistics above, 1,182 properties could potentially have been charged with service fees for 2014 if Vancouver had the authority to seek to recover costs associated with three or more excessive nuisance calls per year.

Cities that imposed nuisance abatement service fees were able to recover police and staff costs for problematic properties that consistently drain city resources. In addition, these cities have indicated that this provision is an effective tool to motivate property owners to resolve nuisance issues.

Staff believe that the City of Vancouver has by-laws and enforcement methods in place that effectively address most nuisance type of complaints. There is no expected benefit in enacting a new Nuisance By-law if the City has no legal authority to charge for excessive nuisance service calls. This is why staff recommend that Council consider seeking an amendment to the Vancouver Charter to allow the creation of a by-law regarding nuisance abatement service fees. In addition, Council may direct staff to collaborate with the VPD on the feasibility of re-instating the CFMH Program and to report back on a comprehensive set of regulatory options to deal with nuisance issues once the proposed Vancouver Charter amendment is enacted.

CONCLUSION

This report is in response to Council's motion on April 29, 2014. Although the City has multiple individual by-laws that address various nuisance issues Council does not have the legal authority to create a by-law imposing nuisance abatement service fees on property owners. This authority may be granted by the Province by amendments to the Vancouver Charter. Charging service fees for excessive nuisance service calls is effective, and will recover police and staff costs, but it also serves as an additional tool to motivate property owners to resolve and comply with nuisance abatement orders.