



ADMINISTRATIVE REPORT

Report Date: January 24, 2019
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VanRIMS No.: 08-2000-20
Meeting Date: April 2, 2019

TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: Appointment of Screening Officer I and II for Enforcement of the Drinking Water Conservation By-law.

RECOMMENDATION

- A. THAT Council instruct the Director of Legal Services to bring forward for enactment amendments to the By-law Notice Enforcement By-law generally in accordance with Appendix A in order to facilitate the administration of the Drinking Water Conservation By-law.
- B. THAT Council approve the revised Screening Officer Policy set out in Appendix B to become effective upon enactment of the by-law referred to in Recommendation A.

REPORT SUMMARY

This report proposes amendments to the By-law Notice Enforcement By-law to appoint all persons employed as an Engineer Assistant II as a Screening Officer I and all persons employed as an Engineer Assistant IV as a Screening Officer II to facilitate the administration of the Drinking Water Conservation By-law.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On February 1, 2011 Council enacted the By-law Notice Enforcement By-law and adopted a related Screening Officer Policy. This helped establish an alternative system of enforcement of parking related by-laws.

On May 1, 2018 Council enacted the Drinking Water Conservation By-law, previously known as the Water Shortage Response By-law and amended the By-law Notice

Enforcement By-law Schedule A to include Drinking Water Conservation By-law contraventions

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

The By-law Notice Enforcement By-law supports a more informal method of by-law enforcement, commonly known as the by-law forum. The by-law forum is presided over by provincially selected adjudicators. The City has successfully used the by-law forum to enforce parking (and other) by-laws since February 2011. Many other local governments in BC also use the by-law forum.

The Water Shortage Response By-law was enacted in 2004. In May 2018 it was repealed and replaced with the Drinking Water Conservation By-law. The By-law Notice Enforcement By-law was also amended at that time to authorize the enforcement of the Drinking Water Conservation By-law by using the by-law forum.

The by-law forum is intended to be the primary method used for enforcement of the Drinking Water Conservation By-law in 2019, and requires the appointment of a Screening Officer I and II to review alleged violations prior to adjudication.

Strategic Analysis

This report recommends the appointment of an Engineering Assistant II as a Screening Officer I and an Engineering Assistant IV as a Screening Officer II. The appointment of a Screening Officers is authorized by the provincial legislation that created the by-law forum. Council has already appointed Screening Officers to help administer the enforcement of by-laws by using the by-law forum, but Council has not yet appointed Screening Officers to specifically help administer the enforcement of the Drinking Water Conservation By-law by way of the by-law. In order to make it lawful to enforce the Drinking Water Conservation By-law at the by-law forum, Council must now appoint Screening Officers.

Implications/Related Issues/Risk

Financial

Enforcement is an existing program with existing staffing in place. There will be no further financial requirements.

Legal

The Local Government By-law Notice Enforcement Act authorizes Council to enforce the Drinking Water Conservation By-law through the by-law forum

Appointment of a Screening Officer to help enforce the Drinking Water Conservation By-law is now required

CONCLUSION

Staff recommend amendments to the By-law Notice Enforcement By-law and Screening Officer Policy in order to facilitate the administration and enforcement of the Drinking Water Conservation By-law.

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BY-LAW NO.

**A By-law to amend the
By-law Notice Enforcement By-law No. 10201
regarding screening officers and enforcement of
the Drinking Water Conservation By-law**

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

1. This By-law amends the indicated provisions of By-law Notice Enforcement By-law No. 10201.
2. Council strikes sections 7.2 and 7.3, including the headings, and replaces them as follows:

“Appointment of Screening Officers I

7.2 Council hereby designates all persons employed by the City as a Customer Services Representative – Parking Enforcement, and Engineering Assistant II – Water Conservation as persons that may be appointed as a Screening Officer I, and hereby appoints them as a Screening Officer I.

Appointment of Screening Officers II

7.3 Council hereby designates all persons employed by the City as an Operations Supervisor – Parking Enforcement, Superintendent II – Parking Enforcement, all Supervisors and Managers of Revenue Services, and Engineering Assistant IV’s – Water Conservation as persons that may be appointed as a Screening Officer II, and hereby appoints them as a Screening Officer II.”.

3. Council strikes section 8, and replaces it as follows:

“8. Council appoints:

- (a) the Collector of Taxes, including all Managers and Supervisors in Revenue Services as by-law enforcement officers for the purposes of enforcing section 5.2 of the Vacancy Tax By-law;
- (b) parking enforcement officers and animal control officers as by-law enforcement officers for the purposes of enforcing Parts 6, 7 and 8 of the Drinking Water Conservation By-law; and
- (c) parking enforcement officers and police officers for the purposes of enforcing all other by-law contraventions set out in Schedule A of this By-law.”.

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.

Screening Officer Policy
BY-LAW NOTICE ENFORCEMENT BY-LAW

The City of Vancouver has designated by-law contraventions that may be dealt with by By-law Notice and has established the positions of Screening Officer I and Screening Officer II under section 7.1 of the By-law Notice Enforcement By-law.

Under the authority of section 10 of the Local Government By-law Notice Enforcement Act (the "Act") a Screening Officer must review all disputed By-law Notices before adjudication and has the authority to cancel a By-law Notice in accordance with the Act.

Under section 10(2)(a) of the Act a screening officer is authorized to cancel a By-law Notice if, in the screening officer's opinion:

- i. the contravention did not occur as alleged:
- ii. the By-law Notice does not comply with section 4(4) of the Act: or
- iii. a ground for cancellation authorized by the local government is satisfied.

Any Screening Officer I and any Screening Officer II may cancel a motor vehicle related By-law Notice, a Drinking Water Conservation By-law related By-law Notice, in accordance with sections 10(2)(a)(i) and 10(2)(a)(ii) of the Act.

Any Screening Officer II may cancel a Vacancy Tax related By-law Notice in accordance with sections 10(2)(a)(i) and 10(2)(a)(ii) of the Act.

This policy outlines when each category of Screening Officer can cancel a By-law Notice under section 10(2)(a)(iii) of the Act.

Motor Vehicle and Parking Enforcement

Screening Officer I and Screening Officer II

The City of Vancouver authorizes any Screening Officer I and any Screening Officer II to cancel a motor vehicle related By-law Notice if, in the screening officer's opinion:

- 1) The identity of the alleged offender cannot be proven because:
 - a) The By-law Notice was issued to the wrong person;
 - b) The vehicle involved in the By-law contravention had been stolen; or
 - c) The vehicle registration decal or vehicle licence plate of the vehicle involved in the contravention had been stolen.

- 2) The person who was issued the By-law Notice was authorized to take the action as a result of an exception specified in a City of Vancouver By-law, or other enactment. For example,
 - a. The person was an exempt resident; or
 - b. The vehicle named in the By-law Notice was exempt.

- 3) The adjudicator is not likely to be satisfied that the contravention alleged in the By-law Notice occurred as alleged because the evidence is not adequate to prove a contravention on a balance of probabilities.

4) A duplicate By-law Notice was inadvertently issued for the same contravention and the same incident, but this authority to cancel a By-law Notice does not apply to a By-law Notice issued for a continuing contravention occurring on successive days.

Screening Officer II

The City of Vancouver also authorizes any Screening Officer II to cancel motor vehicle related By-law Notices if, in the screening officer's opinion:

1. The alleged contravention of the by-law was necessary for the preservation of health and safety, or
2. It is not in the public interest to proceed to an adjudication of the By-law Notice.

Vacancy Tax

Screening Officer II

The City of Vancouver authorizes any Screening Officer II to cancel a By-law Notice concerning section 5.2 of the Vacancy Tax By-law if, in the screening officer's opinion:

- 1) The contravention cannot be proven because:
 - a. The By-law Notice was issued to the wrong person;
 - b. The alleged offender was never sent a notice that they were required to make a declaration;
 - c. The City made an error in recording the declaration receipt; or
 - d. The folio was not subject to a requirement for the owner to declare.
- 2) The adjudicator is not likely to be satisfied that the contravention alleged in the By-law Notice occurred as alleged because the evidence is not adequate to prove a contravention on a balance of probabilities.
- 3) A duplicate By-law Notice was inadvertently issued for the same contravention and the same incident.
- 4) It is not in the public interest to proceed to an adjudication of the By-law Notice.

Drinking Water Conservation

Screening Officer I and Screening Officer II

The City of Vancouver authorizes any Screening Officer I and any Screening Officer II to cancel a By-law Notice concerning Part 6, Part 7 and Part 8 of the Drinking Water Conservation By-law if, in the screening officer's opinion:

- 1) the property related to the alleged contravention was subject to a valid Water Exemption Permit at the time of the alleged offence; or
- 2) A duplicate By-law notice was inadvertently issued for the same contravention on the same day.

Screening Officer II

The City of Vancouver also authorizes any Screening Officer II to cancel a By-law Notice concerning Part 6, Part 7 and Part 8 of the Drinking Water Conservation By-law if, in the screening officer's opinion:

- 1) The adjudicator is not likely to be satisfied that the contravention alleged in the By-law Notice occurred as alleged because the evidence is not adequate to prove a contravention on a balance of probabilities;
- 2) The alleged contravention of the by-law was necessary for the preservation of health and safety; or
- 3) It is not in the public interest to proceed to an adjudication of the By-law Notice.

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