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REPORT

Report Date: November 8, 2019
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VanRIMS No.: 08-2000-20
Meeting Date: November 27, 2019
[Submit comments to Council](#)

TO: Standing Committee on Policy and Strategic Priorities

FROM: Chief Licence Inspector, in consultation with City Engineer and General Manager of Finance, Risk and Supply Chain Management

SUBJECT: Increasing and Collecting Fines Related to Fighting and Disorder in the Granville Entertainment District

RECOMMENDATION

- A. THAT Council approve, in principle, an increased fine for violating section 69.A (fighting) of the Street and Traffic By-law No. 2849;

FURTHER THAT the Director of Legal Services to be instructed to bring forward for enactment amendments to the Street and Traffic By-law No. 2849 and the Ticket Offences By-law No. 9360 regarding an offence pursuant to the Street and Traffic By-law, generally in accordance with Appendices B and C.

- B. THAT Council adopt the recommendation for implementation of a graduated fine for violation of section 69.A of the Street and Traffic By-law No. 2849, reducing the amount of the fine by 50% if paid within 30 days.

REPORT SUMMARY

In February 2019, Council directed staff to consider policies or by-laws to achieve greater success in collecting fines imposed and/or recovering costs associated with offences under section 69.A of the City's Street and Traffic By-law. Section 69.A makes fighting in public a municipal offence, which may be enforced by issuing a ticket subject to a fine currently set at \$500. In May 2018, Council directed staff to review and consider increasing this fine, which was further endorsed by the Granville Entertainment District Safety and Security Working Group. Following consultations with the Vancouver Police Department, staff recommend increasing the fine for fighting in public from \$500 to the maximum ticket fine amount of \$1,000. The increased penalty is intended to deter street fighting and disorder. Further, staff recommend reducing the

fine by 50% if paid within 30 days. The reduced fine provides an incentive for voluntary payment and it is anticipated to improve collection rate for fines imposed for fighting.

Further, in August 2019, City staff increased efforts to collect unpaid tickets, including those issued for fighting, by implementing a procedural change which allowed for unpaid tickets to be sent to a collection agency. If the ticket remains unpaid after 30 days, the outstanding debt is reported to the credit rating bureaus and may negatively impact the individual's credit rating. In September 2019, staff implemented a change to reduce the initial reporting period from 90 days to 30 days to increase effectiveness of this approach.

Staff explored the option of requesting the Province to amend provincial legislation to allow payment of these fines to be a condition for issuance or renewal of BC driver's licence, vehicle insurance and/or BC identification card. Similar legislative requests from other municipalities (seven requests since 1994 via resolution submissions to the UBCM; see Appendix A) have been refused by the Province. Additionally, the Provincial response to a similar UBCM request in 1994 identified the possibility of a challenge based on the Charter of Rights and Freedoms because there is no link between street fighting and traffic safety or parking violations. Based on previous Provincial responses to similar requests and a potential Charter challenge if this option was pursued, staff do not recommend a repeat request for amendments to provincial legislation.

Staff consulted with the Vancouver Police Department (VPD) regarding the implementation of punitive fighting by-law fines and whether racial bias is a factor. VPD does not believe racial bias is a factor because enforcement of fighting by-laws is not considered to be a voluntary interaction with the police meaning that if the police attend a scene, they will stop and detain parties involved to investigate. Furthermore, VPD does not collect data on ethnicity of subjects who have been issued a ticket under the fighting by-law. An independent study of the practice of street checks by the VPD is not yet publicly available. Once the report is released, staff will provide a summary of relevant results to City Council.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On May 2, 2018, as part of the Liquor Policy review, Council directed staff to work with the Vancouver Police Department to review fighting fines in the city of Vancouver and consider increasing those fines.

Further, in February 2019, Council directed staff to consult with the Vancouver Police Department and the Province of British Columbia in the interest of public safety to:

- i. Consider policies or enact by-laws to help the City of Vancouver achieve greater success collecting fines issued and/or recovering costs associated with offences under section 69.A of the Street and Traffic By-law, specifically hooliganism, deliberate and/or predatory violence, in the City of Vancouver Entertainment District.
- ii. Consider the benefit of requesting amendments to provincial legislation, that may require fines issued for fighting or similar offences to be paid before the individual can:
 - renew or purchase motor vehicle insurance in British Columbia
 - renew British Columbia Driver's License (BCDL)
 - renew British Columbia Identification (BCID)

- iii. That the report back include relevant information on any racial bias in the implementation of punitive fighting by-law fines, and that it include a summary of relevant results from the independent third party study, initiated by the VPD in January 2019 and due to be completed in July 2019, on the impacts of street checks on Indigenous and racialized people, where stats or lessons around racial bias from that study might be relevant to the issues raised in this motion.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

On February 12, 2019, City Council requested consideration of policies or by-laws to achieve greater success in collecting fines issued for disorderly and violent behaviour in the GED. Collection of unpaid by-law fines issued for fighting in a public space has been an ongoing issue for the City of Vancouver and other municipalities. On March 15, 2007, Council resolved to request that the Mayor urge the Province and ICBC to approve the collection of unpaid by-law fines under the Provincial *Offence Act*. It further recommended linking outstanding by-law fines to Driver's Licence's and/or ICBC insurance to ensure the effectiveness of the ticketing system.¹ In March 2008, Council directed the Civil City Project Commissioner to request the same changes to Provincial legislation. These requests were not successful.

Since 1994, staff are aware of seven unsuccessful requests from other BC municipalities and/or the Union of BC Municipalities seeking assistance from the Provincial Government with collection of unpaid municipal tickets. Most recently in 2018, the Municipality of Whistler approached the Province requesting ICBC to collect outstanding parking tickets and submitted the same resolution to the UBCM. The UBCM endorsed the resolution and contacted the Province with the request.² The Ministry of Attorney General provided a response in February 2019, stating that the Provincial Government has no plans to use ICBC to collect municipal by-law fines at this time.³

Following the Liquor Policy review in 2017, the GED Safety and Security Working Group was established, which included City Staff, Vancouver Police Department, Downtown Vancouver Business Association, Coastal Health and other GED stakeholders. The group worked collaboratively to plan, implement and evaluate strategies to reduce public disorder, violence and alcohol related incidents in the GED. The group identified an increase in fines issued for fighting as one of the strategies to address these issues.

¹ Council Report, Project Civil City – Progress Update, April 3, 2007.

² Provincial Response to UBCM Resolutions, 2018.

<https://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2018%20Provincial%20Responses.pdf>

³ Ministry of Municipal Affairs and Housing, Provincial Response to the Resolutions of the 2018 Union of British Columbia Municipalities, February 2019.

<https://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2018%20Provincial%20Responses.pdf>

Strategic Analysis

Recovering Costs Associated with Fighting in Public

Fine Increase

City Council directed staff to consider policies and by-laws to achieve greater success collecting fines issued and/or recovering costs associated with offences under Street and Traffic By-Law 2849 section 69.A, specifically hooliganism, deliberate and/or predatory violence. Deliberate and predatory violence is considered to be a criminal assault and therefore falls under Federal jurisdiction. However, such behaviour as hooliganism, and fighting specifically, can be enforced through the municipal by-law as fighting on City's streets is a violation of section 69.A of the Street and Traffic By-law.

Violation of this By-law provision is subject to a municipal fine currently set at \$500. An increase in the fine imposed for fighting coupled with sending outstanding fines to a collection agency is aimed at achieving greater success in collecting the fines. In response to Council's direction to review the fine amount, staff recommend increasing the fine from \$500 to \$1,000, the maximum penalty amount allowed for a ticket under the Vancouver Charter. This recommendation is supported by the Vancouver Police Department (VPD).

Collection of Fines

Beginning in August 2019, the City's Revenue Services Department began sending outstanding tickets, including those issued for fighting, to the Credit Bureau of Canada Collections (CBCC) if not paid within 60 days. The collection agency will repeatedly contact the individual to collect an outstanding fine by phone, mail, e-mail and/or text messaging; attempts to contact will be made throughout each week at different times of the day until the legislated limit of contacts is reached. If the CBCC's repeated collection attempts are unsuccessful after 90 days, the debt will be reported to the two main credit rating agencies, Equifax and TransUnion.

The Vancouver Charter allows the City to establish a discount for fines paid within 30 days of being issued. The graduated fine payment approach has proven effective for the collection of City parking tickets with 63% of tickets paid within the discount period. Providing additional incentive to pay a reduced rate is likely to increase fine collection rates. Best practices research indicates that reduced early payment fine amount provides an incentive for voluntary payment. Therefore, staff recommends implementing a 50% fine reduction if it is paid within 30 days of issuing a ticket. VPD supports strengthening the fine collection mechanisms in an effort to enhance safety by reducing violence and disorder.

Considerations for Provincial Legislative Amendments

Staff explored the option of requesting amendments to provincial legislation that may require fines issued for fighting or similar offences to be paid before an individual can renew or purchase motor vehicle insurance or renew BC Driver's License (BCDL) or BC identification (BCID). An outstanding ticket fine will not prevent an individual's ability to obtain a BCDL or BCID, or purchase of motor vehicle insurance. Similar requests have been made to the Province in the past (Appendix A), and have been refused. Further, a possible challenge could be mounted under section 7 of the Charter of Rights and Freedoms, as someone could be deprived of a driver's license for a by-law violation unrelated to their driving record. Staff do not recommend a repeat request for amendments of provincial legislation.

Implementation of Punitive Fighting By-law Fines

The City of Vancouver does not collect or track information related to race or other socio-demographic indicators of people to whom the municipal fines are issued. In 2018, the Vancouver Police Department released data on street checks conducted between 2008 and 2017. An independent third party study of the practice of street checks was initiated in January 2019. The final report on this review is not yet publicly available. Once the results and summary of the report are released in 2020, staff will provide it to the City Council. It is not believed that the report will provide relevance or a basis for comparison as it relates to this motion.

In absence of the report being available at this time, VPD provided information as to why there is no racial bias in the implementation of punitive fighting by-law fines:

- Street checks are voluntary interactions with members of the public (subject being ‘checked’ can walk away if they choose);
- Enforcement of the violation under sec. 69.A of the Streets and Traffic By-law (fighting) is not voluntary meaning that if VPD attend a scene, they will stop and detain parties involved to investigate;
- VPD does not collect data on ethnicity of subjects, who have been issued a ticket under the fighting by-law;
- The subjects engaged in the fight are determined prior to police involvement; and,
- VPD issue a ticket only in response to an offense.

Public/Civic Agency Input

Vancouver Police Department expressed their support for increasing the fine for fighting from \$500 to \$1,000 and indicated that it needs to be supported by the collection agency’s appropriate processes and consequences when the fine is not paid by an offender.

CONCLUSION

To achieve greater success in collecting fines issued under section 69.A of the Street and Traffic By-Law, staff recommends increasing the fine from \$500 to \$1,000. Strengthening enforcement by collecting these fines through a third-party collection agency and reporting outstanding debt to the credit rating bureau will also achieve greater success in collecting fines issued. If the fine increase is approved by Council, staff recommend implementing a graduated fine payment of 50% if the ticket is paid within 30 days of ticket issuance to further increase repayment rates.

Staff considered the option of requesting the Province to amend legislation to allow repayment of fighting ticket fines to be a condition for issuance or renewal of BCID, BCDL or motor vehicle insurance. As similar requests have been denied in the past and linking non-motor vehicle related offence to the ability to obtain a driver’s licence or insurance may be challenged under the Charter of Rights and Freedoms, staff does not recommend a repeat request for amendments to provincial legislation.

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UBCM Resolutions

Previous UBCM requests from other municipalities for legislative changes to allow ICBC to collect unpaid (mostly parking) fines at the time of renewal of British Columbia Driver's License or auto insurance that have been denied by the Province.

[2018](#) – Whistler has requested traffic fines to be collected by ICBC at time of auto insurance of driver's licence renewal. Request denied by the Province.

[2003](#) – West Vancouver and North Vancouver/UBCM have requested collection of unpaid vehicle related violations through ICBC. Request denied by the Province.

[2000](#) – Oliver/UBCM requested to collect property related tickets through property taxes (not ICBC but Provincial response demonstrates government's position on linking an offence by a person to tax system collection powers jurisdiction). Request denied by the Province.

[1999](#) – Mission/UBCM request for collection of municipal unpaid tickets through municipal property tax collection and through the provincial vehicle licensing process if an offender does not have property in the offended municipality. Request was considered and the Ministry of Municipal Affairs responded that "Investigation of the feasibility of implementing this proposal (and other similar proposals) would, if undertaken, likely involve several agencies, including Attorney General and ICBC. This could be considered as a follow-up to the Financing Local Government review, but should only be pursued if the UBCM considers this to be a matter for priority attention."

[1998](#) – Surrey requested to establish a requirement of paying traffic related fines for renewal of BCDL/insurance. Request denied by the Province.

[1995](#) – Abbotsford requested to the Provincial government to change legislation to authorize municipalities to apply unpaid tickets for land use violations to the subject property as taxes in arrears and against the owner of a vehicle and/or driver's license renewal for traffic related bylaw infractions as per provisions of the Motor Vehicle Act. Request denied by the Province.

[1994](#) – Abbotsford requested to collect parking tickets at the time of insurance renewal. Request denied by Province on the basis of possible Charter of Rights and Freedoms challenge.

BY-LAW NO. _____

**A By-law to amend
Street and Traffic By-law No. 2849
Regarding the minimum fine for street fighting**

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

1. This by-law amends the indicated provisions of the Street and Traffic By-law, No. 2849.
2. Council strikes "69A," from section 103.(2) and inserts a new section 103.(7) that reads:

"Every person who commits an offence against the provisions of section 69A is liable to a fine of not less than \$1,000.00 and not more than \$10,000.00, unless a provision of the Ticket Offences By-law authorizes a lower fine."
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.
4. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2019

Mayor

City Clerk

BY-LAW NO. _____

**A By-law to amend Ticket Offences By-law No. 9360
regarding an offence pursuant to the
Street and Traffic By-law**

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

5. This By-law amends the indicated provisions and schedules of Ticket Offences By-law No. 9360.
6. Council strikes Table 5.1 of the By-law and replaces it with the Table 5.1 attached to this by-law
7. Council strikes section 2.4 and replaces it as follows:

“2.4 Council sets the fine for contravention of each by-law provision as the amount listed in Column 4 of each of the tables opposite each such provision in Column 3, except where an amount is set out in Column 5 opposite the amount in Column 4, in which case the fine amount is the figure in Column 5, if paid on or before the 30th day after service of the ticket.
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.
5. This By-law is to come into force and take effect upon enactment.

ENACTED by Council this _____ day of _____, 2019

Mayor

City Clerk

"Table 5.1
Street and Traffic By-law

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>	<u>Column 5</u>
Police Officer	Fighting in Public	Section 69A	\$1,000.00	\$500.00
	Riding Bicycle on sidewalk	Section 60	\$100.00	
	No Helmet	Section 60D	\$100.00	
	Jaywalking	Section 12(2)	\$100.00	
	Disobeying traffic sign/signal	Section 6	\$100.00	
	Motor vehicle in Plaza	Section 34A(2)	\$100.00	
	In Plaza after hours	Section 34A(3)	\$100.00	

"