



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** March 23, 2020
From: Cecilia Achiam **File:** 12-8275-01/2020-Vol
 General Manager, Community Safety 01
Re: **Enhanced Enforcement Measures to Support Provincial Health Orders**

Staff Recommendation

1. That Business Licence Bylaw No. 7360, Amendment Bylaw No. 10171, to increase fines for businesses not in compliance with the terms of Business Licence Bylaw No. 7360, be introduced and given first, second and third readings.
2. That Business Regulation Bylaw No. 7538, Amendment Bylaw No. 10172, to increase fines for businesses not in compliance with the terms of Business Regulation Bylaw No. 7538, be introduced and given first, second and third readings.
3. That Council endorse, as reasonable in the current circumstances, a notice procedure for these bylaw amendments as follows, which deviates from that set out in Council Policy 9311:
 - a. Following third reading, notice be made via news release and posted on the City's website;
 - b. Such notice will invite those who believe they are affected by the proposed bylaws to send written representations to the City Clerk by email or mail so that they are received on or before noon on Friday, April 3, 2020; and
 - c. The anticipated date of adoption for the bylaws is Monday, April 6, 2020.
4. That Council endorse the Chief Licence Inspector to suspend the licence of any business found to be not in compliance with health orders, as outlined in the report titled, "Enhanced Enforcement Measures to Support Provincial Health Orders", from the General Manager, Community Safety, dated March 23, 2020.

Cecilia Achiam
 General Manager, Community Safety
 (604-276-4122)

REPORT CONCURRENCE	
ROUTED TO: Law	CONCURRENCE <input checked="" type="checkbox"/>
SENIOR STAFF REPORT REVIEW	INITIALS:
APPROVED BY CAO 	

Staff Report

Origin

The Provincial Health Officer has issued a number of Orders directed at businesses and the public in order to stop the spread of COVID-19. While many of the provisions of these Orders are outside of the jurisdiction of municipalities, there are immediate measures that can be taken by the City of Richmond to support the Orders and enhance existing bylaw enforcement.

This report supports Council's Strategic Plan 2018-2022 Strategy #1 A Safe and Resilient City:

Enhance and protect the safety and well-being of Richmond.

1.1 Enhance safety services and strategies to meet community needs.

Findings of Fact

The Provincial Health Officer has issued several Orders in order to protect public health and stop the spread of COVID-19. To date, those Orders include:

- An Order that prohibits anyone from hosting, authorizing or enabling the gathering of 50 or more people (with exemptions for businesses such as grocery stores and pharmacies);
- An Order that requires people arriving from travel outside of Canada to remain at home, in self isolation for 14 days upon their arrival;
- An Order that restricts Owners of restaurants and bars to providing take out and delivery service only, no dine service is permitted; and
- An Order that requires Owners of personal service businesses, such as spas, salons and tattoo parlours to close their business.

Business Licence Bylaw No. 7360 (the "Business Licence Bylaw") specifies that businesses in the City of Richmond are required to comply with all municipal, provincial and federal laws and regulations. Any business found not in compliance with a Provincial Order is at risk of having their licence suspended or cancelled.

Analysis

Maximum Fines for Businesses in Non-Compliance with City Bylaws

There are two main avenues for taking enforcement action against businesses or other entities found not in compliance with City Bylaws.

- **Tickets** can be issued for specific provisions of bylaws where those provisions have been approved by Council and enacted in a bylaw. In general, the City does not have the authority to issue tickets for regulations enacted by senior levels of government, such as the Provincial Health Orders in place to prevent the spread of COVID-19
- **Fines** are levied by Provincial Court when parties are found by the Court to be in violation with any provisions of any City Bylaws. The amount of the fine is determined

on a case by case basis by the Court. This is often referred to as “long form prosecution” and is the result of laying a charge and providing the accused party the opportunity to have the case heard in trial. This process takes 6-18 months from the time of the violation to the application of fine (when parties are found to be guilty).

In the case of businesses, the City has an additional enforcement measure, which is the suspension or cancellation of a business licence.

Up until recently for fines issued by Provincial court, the maximum fine allowed by the Community Charter was \$10,000 per violation. However, the Charter was recently amended to allow municipalities to amend their bylaws to provide for fines to a maximum of \$50,000 per violation. This report recommends amendments to the Business Licence Bylaw and Business Regulation Bylaw No. 7538 to increase the maximum fine to \$50,000.

Public Notice Provision for Bylaw Amendments

Under provisions of the Community Charter, prior to business related bylaws being amended, as is proposed in this report, Councils are required to notify the public and allow interested parties an opportunity to make representations to Council. Council Policy 9311, specifies that this notice shall include two notices in a local newspaper plus a two week period waiting period prior to final adoption of a bylaw.

Under the current circumstances, it is in the public’s best interest to move quickly to enforce Provincial Health Orders and protect the public from the spread of COVID-19. In this instance, it is unclear if the newspaper notices are the most efficient way to get information to the public and further if newspaper circulation will be affected by the current situation. Those members of the public in self isolation may not even be able to collect newspapers.

In consideration of the above, it is recommended that Council endorse a change to Council Policy 9311 for this amendment with details as follows:

- a. Following third reading of the bylaw amendment, notice of the amendment be made via news release and posted on the City's website; and
- b. Such notice will invite those who believe they are affected by the proposed bylaw amendments to send written representations to the City Clerk by email or mail on or before noon, nine business days form third reading.

Should this be approved by City Council, the bylaw amendments presented in this report can be given immediate first, second and third readings with final reading and adoption two weeks later.

Immediate Suspension of Licences for Businesses not Complying with Provincial Health Orders

The Business Licence Bylaw No. 7360 grants the authority to a Licence Inspector to suspend business licences, whereas licence cancellations must be approved by City Council. However, it is current practice at the City of Richmond that business licence suspensions are approved by City Council and not at the staff level. Taking matters such as business licence suspensions or

cancellations to City Council requires a six to eight week lead time in order to schedule a special public meeting and provide sufficient notification to the business in question.

In consideration of the specific orders issued by the Public Health Officer, bylaw enforcement staff have been redeployed to respond to complaints and observations by the public. Depending on the number of complaints received and staffing levels, bylaw enforcement staff will also be providing proactive patrols of businesses and public areas. Any business not in compliance will be educated on the regulations and warned that continued non-compliance could result in suspension or cancellation of their business licence. There is no authority for City of Richmond staff to issue tickets for non-compliance however, staff can issue tickets if business operate when their licence is suspended or cancelled.

In the interest of time, and in recognition of the extraordinary measures being undertaken to stop the spread of COVID-19, it is proposed that the practice of forwarding all business licence suspensions to City Council is amended under specific terms. It is proposed that City Council endorse the Chief Licence Inspector, currently Carli Williams, to suspend business licences of businesses found not in compliance with orders issued by either the Federal or Provincial governments to stop the spread of COVID-19. All other matters pertaining to the suspension of business licence will continue to be forwarded to City Council.

Allowing the Chief Licence Inspector to immediately suspend the licences of any businesses found not in compliance with health orders will enable bylaw enforcement officers to issue tickets (\$500 to \$1,000) each day that the business remains open. The suspension of a licence would be contemplated only in instances where businesses had first received a warning and remained in continued non-compliance. Suspensions would be issued for two weeks with further offences leading to a two month suspension and a recommendation for licence cancellation to be considered by City Council.

Financial Impact

None.

Conclusion

Bylaw Enforcement staff have been deployed to assist with education and enforcement of businesses not complying with government orders issued to stop the spread of COVID-19. The recommendations in this report will strengthen the enforcement measures and increase consequences for those not complying with Provincial Health Orders or City Bylaws.



Carli Williams
Manager, Business Licencing and Bylaws
Chief Licence Inspector
(604-276-4136)



**Business Licence Bylaw No. 7360,
Amendment Bylaw No. 10171**

The Council of the City of Richmond enacts as follows:

1. **Business Licence Bylaw No. 7360**, as amended, is further amended at Section 5.1 by deleting the last paragraph and inserting the following:

“commits an offence and upon conviction shall be liable to a fine of not more than Fifty Thousand Dollars (\$50,000.00), in addition to the costs of the prosecution, and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence, and may result in the suspension, cancellation or revocation of the **licence** in question.”

2. This Bylaw is cited as “**Business Licence Bylaw No. 7360, Amendment Bylaw No. 10171**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating Division <i>CW</i>
APPROVED for legality by Solicitor <i>JA</i>

MAYOR

CORPORATE OFFICER



Business Regulation Bylaw No. 7538, Amendment Bylaw No. 10172

The Council of the City of Richmond enacts as follows:

1. Business Regulation Bylaw No. 7538, as amended, is further amended at Section 24.1 by deleting subsection (e) and replacing it with the following:

“(e) makes any false or misleading statement, commits an offence and upon conviction shall be liable to a fine of not more than Fifty Thousand Dollars (\$50,000.00), in addition to the costs of the prosecution, and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence. .”
2. This Bylaw is cited as “**Business Regulation Bylaw No. 7538, Amendment Bylaw No. 10172**”.

FIRST READING

SECOND READING

THIRD READING

LEGAL REQUIREMENTS SATISFIED

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept. <i>CW</i>
APPROVED for legality by Solicitor <i>JA</i>

MAYOR

CORPORATE OFFICER