



Date: April 17, 2003

**TO: Board Members - Parks and Recreation**  
**FROM: General Manager - Parks and Recreation**  
**SUBJECT: By-law Amendment**

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## **RECOMMENDATION**

*To receive the attached report prior to consideration of the revised Park Control By-law and the Parks Removal of Animal Manure, Dung, Refuse and Waste By-law (Appendix A).*

## **POLICY**

The Board approves all by-laws and amendments to by-laws.

## **BACKGROUND**

In 2002, the City's Legal Services informed staff that portions of the Parks Control By-law are outdated in that they do not match the similar City by-laws and do not reflect same terms of the Federal Charter of Rights and Freedoms. As a result, the Police are reluctant to enforce any violations of the Park Control by-laws. Legal Services is recommending that the Board amend the "Violation of By-law" and "Penalty Clause" sections of both the Parks Control By-law and the Parks Removal of Animal Manure, Dung, Refuse and Waste By-law to match the wording of the current City by-laws with regard to the application of penalties for violating the by-law.

## **DISCUSSION**

In general, the "Violation of By-law" section states that a person who violates a Park Board by-law shall be liable to a penalty while the Penalty section defines the penalty. Table 1 outlines the existing and proposed wording for Sections 25 and 26 of the Parks Control By-law and Sections 5 and 6 of the Parks Removal of Animal Manure, Dung, Refuse and Waste By-law.

**TABLE 1**

<b>By-law Section</b>	<b>Existing</b>	<b>Proposed</b>
Park Control By-law Section 25	Penalty Clause - Every person who commits an offence against this by-law is liable to a fine and penalty not exceeding two thousand dollars (\$2,000) and not less than fifty dollars (\$50) for each offence, or in the alternative, to imprisonment for any period not exceeding two (2) months.	(a) Every person who commits an offence against this by-law is punishable on conviction by a fine of not less than \$50.00 and not more than \$2,000.00 for each offence.  (b) 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 is continued.
Park Control By-law Section 26	Violations of By-law - Every person who offends against any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this by-law, or who does any act or thing which violates any of the provisions of this by-law, shall be deemed to be guilty of an offence against this by-law and shall be liable to the penalties hereby imposed.	Every person who violates any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions by this by-law, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this by-law, or who does any act which violates any of the provisions of this by-law, or who fails to comply with an order, direction, or notice given under this by-law is guilty of an offence against this by-law and liable to the penalties hereby imposed. Each day that a violation is permitted to exist will constitute a separate offence.

<b>TABLE 1</b>		
<b>By-law Section</b>	<b>Existing</b>	<b>Proposed</b>
Parks Removal of Animal Manure, Dung, Refuse and Waste By-law Section 5	Violations of By-law - Every person who offends against any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this by-law, or who does any act or thing which violates any of the provisions of this by-law, shall be deemed to be guilty of an offence against this by-law and shall be liable to the penalties hereby imposed.	Every person who violates any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions by this by-law, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this by-law, or who does any act which violates any of the provisions of this by-law, or who fails to comply with an order, direction, or notice given under this by-law is guilty of an offence against this by-law and liable to the penalties hereby imposed. Each day that a violation is permitted to exist will constitute a separate offence.
Parks Removal of Animal Manure, Dung, Refuse and Waste By-law Section 6	Penalty Clause - Every person who commits an offence against this by-law is liable to a fine and penalty not exceeding five hundred dollars (\$500) and not less than fifty dollars (\$50) for each offence, or in the alternative, to imprisonment for any period not exceeding two (2) months.	(a) Every person who commits an offence against this by-law is punishable on conviction by a fine of not less than \$50.00 and not more than \$2,000.00 for each offence.  (b) 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 is continued.

The amendment to the Violation of By-law sections focuses on handling repeat offences stating that each day a violation is permitted to exist will constitute a separate offence. The Penalty section amendment removes imprisonment as a possible penalty and adds a fine to not exceed \$50 per day to persons who commit offences of a continuing nature. In addition, the maximum penalty under the Parks Removal of Animal Manure, Dung, Refuse and Waste By-law would increase from \$500 to \$2,000. These amendments are consistent with violation and penalty sections of other civic by-laws.

## **SUMMARY**

These amendments do not introduce any substantive changes to the application of these regulations. They are primarily intended to update and standardize these sections with other civic by-laws.

Prepared by:  
Stanley District  
Board of Parks & Recreation  
Vancouver, BC