

ITEM	16
MANAGER'S REPORT NO.	52
COUNCIL MEETING	Aug. 16/76

Re: PROPOSED AMENDMENT TO BURNABY FIRE PREVENTION BY-LAW NO. 5096
(ITEM 21, REPORT NO. 44, JUNE 28, 1976)--(Contains background)

On June 28, 1976, Council tabled a report on a proposal to amend Burnaby Fire Prevention By-law No. 5096 for the specific purpose of increasing the minimum penalty payable under the by-law from \$25.00 to \$150.00. The following report from the Fire Chief contains replies to the inquiries that were raised by Council when this matter was previously considered.

The Municipal Solicitor advises that under Section 57 of the Summary Convictions Act, no justice shall, except under the Small Claims Act, order that a person be imprisoned for reason only that he defaults in paying a fine. Therefore, the provision in the by-law providing for imprisonment in default of payment of a fine is unenforceable.

RECOMMENDATIONS:

1. THAT Item 21, Report No. 44 dated June 28, 1976 be lifted from the table; and
2. THAT the minimum fine under the subject by-law be increased from \$25.00 to \$150.00, to become effective on October 1, 1976.

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TO: MUNICIPAL MANAGER August 4, 1976
FROM: FIRE CHIEF
SUBJECT: PROPOSED AMENDMENT TO BURNABY FIRE PREVENTION BY-LAW
NO. 5096

Following the tabling of the subject matter pending further enquiries both as to individual and commercial applications and as well the policy on violation, the Fire Chief has provided the following information:

1. Violators are always warned prior to charges being laid.
2. Warnings vary depending on seriousness of violations:
 - (a) Outdoor burning - one warning; no senior citizen has ever been charged;
 - (b) The general public was advised as to the subsequent enactment of the By-law, such information being published in the Burnaby Newsletter, tax notices and the news media, so as to ensure they were fully aware of its existence;

- (c) Contractors, land clearers etc. have been charged for burning offences as they, being in the business, are aware of local restrictions;
- (d) Other industrial and commercial businesses are given a minimum of three warnings of violations before being charged, again, dependent on the seriousness of the offence;
- (e) Underground tank and propane installers have been warned individually on numerous occasions. Also there is an admonition on the application for permit outlining their responsibilities.

3. Charges laid for infractions of By-law No. 5096:

1975	9	1971	8
1974	18	1970	18
1973	8	1969	9
1972	14	1968	10

- 4. Main offenders to date are building contractors, propane and underground gas tank installers, and private citizens (who are in constant violation).
- 5. In addition to the penalties for violations as noted under Item 21 of Manager's Report No. 44 submitted to Council meeting June 28, 1976, North Vancouver District By-law provides for a set fine of \$500.00 minimum. North Vancouver City has fine and imprisonment.
- 6. The Fire Prevention Bureau are totally impartial where application and enforcement of by-laws are concerned, whether or not the violation is corporate or private citizen. The only exception is as noted above with respect to senior citizens.
- 7. Penalties:- Section 1.3.4. Article 1.3.4.1. of By-law No. 5096 states:

"Every person who contravenes or fails to comply with this By-law or who fails to carry out an order made under this By-law or any condition attached to a permit or to which a permit is subject is guilty of an offence and where no other penalty is provided under this By-law is liable on summary conviction to a fine of not less than \$25.00 and not more than \$500.00 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment and in default of payment of the fine to imprisonment for an additional term not exceeding six months".

RECOMMENDATION:

That the minimum fine under the subject By-law be increased from \$25.00 to \$150.00 to become effective October 1, 1976.

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