

TO: CITY MANAGER **DATE:** 2004 07 07
FROM: DIRECTOR ENGINEERING **FILE:** 42000-01
SUBJECT: STREET AND TRAFFIC BYLAW AMENDMENT
PURPOSE: To recommend an Amendment to the Street and Traffic Bylaw.

RECOMMENDATION:

- 1. **THAT** Section 57 of Burnaby Street and Traffic Bylaw 1961 be amended as outlined in this report.

REPORT

1.0 INTRODUCTION

A 2003 amendment to the Provincial Court Act (new section 2.1) prohibits a Judicial Justice of the Peace from presiding over a trial for which, upon conviction, a person is liable to be sentenced to a term of imprisonment.

2.0 BACKGROUND

Prosecutions under the Burnaby Street and Traffic Bylaw are routinely and expeditiously dealt with in Traffic Court before a Justice of the Peace.

Section 57 of the Street and Traffic Bylaw sets out fines and penalties for infractions of the bylaw, and includes provision for imprisonment for a period not exceeding sixty (60) days.

Recently, a Justice of the Peace refused to hear a prosecution under the Street and Traffic Bylaw on the basis that s.2.1 of the Provincial Court Act deprived him of jurisdiction, as s.57 of the bylaw provided for imprisonment as a penalty.


3.0 DISCUSSION

The Bylaw Enforcement officers do not seek imprisonment for infractions of the Street and Traffic Bylaw and it is hard to conceive that a Court would order imprisonment except in the most egregious of circumstances.

In order to be able to continue prosecuting Street and Traffic Bylaw infractions in Traffic Court, it is necessary that the bylaw be amended to strike out imprisonment as a penalty.

4.0 CONCLUSION

Staff therefore recommend that Section 57 be amended by striking any reference to a period of imprisonment.


W.C. Sinclair, P. Eng.
DIRECTOR ENGINEERING

WCS:dh

cc: City Solicitor