



NUISANCE (BUSINESS REGULATION) BYLAW

BYLAW NO. 05-069

This consolidation is a copy of a bylaw consolidated under the authority of section 139 of the *Community Charter*.
(Consolidated on February 1, 2015 up to Bylaw No. 10-074)

This bylaw is printed under and by authority of the Corporate Administrator of the Corporation of the City of Victoria.

NO. 05-069

NUISANCE (BUSINESS REGULATION) BYLAW

A BYLAW OF THE CITY OF VICTORIA

(Consolidated to include Bylaws No. 07-045 and 10-074)

The purpose of this Bylaw is to regulate the operation of businesses in connection with which an inordinate number of nuisance investigations arise.

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Under its statutory powers, including section 8(3)(h), 8(6), 12, 15, 16 and 64 of the *Community Charter*, the Council of The Corporation of the City of Victoria enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "NUISANCE (BUSINESS REGULATION) BYLAW".

Definitions

- 2 In this Bylaw,

“nuisance”

means an activity that is a nuisance at law, including without limiting the generality of this definition, an activity

(a) that substantially and unreasonably interferes with a person's use and enjoyment of a public area or of land he or she occupies, or

(b) that causes injury to the health, comfort or convenience of an occupier of land, including without limiting the generality of this paragraph, a noisy party, a group of people making noise, loud music, yelling, shouting, screaming, fighting, littering and trespassing;

“residential rental property”

means property containing one or more rooms, suites of rooms, or lodgings that are rented for residential purposes.

Rules re: Use of business property

- 3 (1) The holder of a business licence must not cause or permit any activity on that property, or on adjacent public property, that
- (a) is a nuisance; or
 - (b) violates the Noise Bylaw.
- (2) The holder of a business licence must take steps to abate any activity on that property, or on adjacent public property where such activity is directly related to that person's business, which is a nuisance or violates the Noise Bylaw.
- (3) Subsection (2) is subject to the provisions of the *Residential Tenancy Act* with respect to residential rental property.

Notice of nuisances

- 4 (1) The Licence Inspector must give written notice to the holder of a business licence under section 4(2) if
- (a) the City or the Victoria Police Department have investigated in any twelve (12) month period, or part thereof, six (6) incidents of nuisances or violations of the Noise Bylaw arising from activities on the property to which the business licence applies; and
 - (b) the Licence Inspector determines that the complaints leading to the investigations
 - (i) had a reasonable basis,
 - (ii) were not frivolous or vexatious, and
 - (iii) were not related to the attendance of police, fire or ambulance personnel in response to an emergency on the property.
- (2) If sub-sections 4(1)(a) and (b) apply, the Licence Inspector must give written notice to the business licence holder that the following rules apply to that business:
- (a) that the licence holder must provide the Licence Inspector with a telephone number at which the holder can be contacted 24 hours per day in the event of an apparent nuisance or Noise Bylaw violation in relation to the business to which the licence applies;
 - (b) that the licence holder for a business for the letting or rental of residential rental property must maintain a register of persons who live at that residential rental property;
 - (c) that the licence holder must pay to the City, upon being invoiced or when the business licence is renewed, the following charges in connection with any investigation as described in section 4(1):

- (i) \$200 per hour for police attendance (based on 2 officers and 1 vehicle), plus 15% for administration, and
 - (ii) \$75 per hour for work by City employees in connection with the investigation, plus 15% for administration.
- (3) The notice provided under section 4(2) must also contain information about the investigations referred to in section 4(1)(a) and the Licence Inspector's decision under section 4(1)(b).
 - (4) The requirements of a notice under subsection (2) no longer apply after a 12 month period in which there have been fewer than six (6) investigations of the kind described in section 4(1).

Reconsideration by Council

- 5 (1) Within 30 days of receiving a notice under section 4(2), the holder of the business licence may, by written notice given to the City's Corporate Administrator, request that Council reconsider the decision of the Licence Inspector.
- (2) Council must provide the holder of a business licence who requests a reconsideration with an opportunity to be heard by Council.

Conditions of business licence

- 6 (1) As a condition of obtaining, continuing to hold or renewing a business licence, the business licence holder must comply with the Property Maintenance Bylaw and the Premises Maintenance Bylaw, 1974.
 - (2) As a condition of continuing to hold or renewing a business licence, a business licence holder to which section 4(1) applies must pay the charges set out in section 4(2)(c).
 - (3) As a condition of continuing to hold or renewing a business licence, a business licence holder to whom section 4(2)(a) applies must comply with that section.
 - (4) As a condition of continuing to hold or renewing a business licence for the rental or letting of residential rental property, a business licence holder to whom section 4(2)(b) applies must comply with that section and section 7(2).
- 6A (1) Subsection (2) applies only if Council determines that there are grounds to suspend or cancel a business licence because of
 - (a) a nuisance, including noise, related to that business's operations, occurring before 6:00 a.m. or after 11:00 p.m. on any day, and
 - (b) a contravention of this Bylaw or the Noise Bylaw.

- (2) Council may require that for up to 6 consecutive months a business must not operate on any day before 6:00 a.m. or after 11:00 p.m.
- (a) as a condition of continuing to hold, or renewing, its business licence that Council decides to suspend or cancel for reasons referred to in subsection (1), or
- (b) as an alternative to ordering the suspension or cancellation of its business licence for reasons referred to in subsection (1).

Inspections

- 7 (1) The Licence Inspector may at all reasonable times enter upon real property, for which a business licence has been issued, to inspect and determine if there is compliance with this Bylaw.
- (2) A licence holder who is required to maintain a register under section 4(2)(b) must make the register available for inspection by the Licence Inspector upon request.

Offences and Penalties

- 8 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw and the *Offence Act* if that person
- (a) contravenes a provision of this Bylaw,
- (b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw, or
- (c) neglects or refrains from doing anything required by a provision of this Bylaw.
- (2) Each day that a contravention of a provision of this Bylaw occurs or continues shall constitute a separate offence.

READ A FIRST TIME the	12th	day of	May	2005
READ A SECOND TIME the	12th	day of	May	2005
READ A THIRD TIME the	12th	day of	May	2005
ADOPTED on the	26th	day of	May	2005

“ROBERT G. WOODLAND”
CORPORATE ADMINISTRATOR

“ALAN LOWE”
MAYOR