

# Memo



**Date:** September 9, 2009  
**File:** BL 10231  
**To:** City Manager  
**From:** City Clerk  
**Subject:** Amendment No. 2 to Fetal Alcohol Syndrome Warning Sign Bylaw

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## **Recommendation:**

THAT Council give reading consideration to Bylaw 10231, being Amendment No. 2 to the City of Kelowna Fetal Alcohol Syndrome Warning Sign Bylaw.

## **Background:**

Council adopted a Fetal Alcohol Syndrome Warning Sign Bylaw in 1994. The bylaw requires all premises licensed for the sale or consumption of alcoholic beverages within the City of Kelowna to have warning signs posted regarding the dangers of fetal alcohol syndrome.

Council received correspondence from the FASD Awareness Day Committee requesting that the references to "fetal alcohol syndrome" in the bylaw be changed to reflect the current terminology of "fetal alcohol spectrum disorder" (FASD). Council instructed staff to make this change during the August 10, 2009 am meeting.

Staff received additional correspondence August 17<sup>th</sup>, 2009 requesting the penalty for not posting the sign be increased and that the sign locations requirement be changed to include two locations within the establishment instead of one.

Staff is not supportive of these other requested changes. Bylaw Services staff check for compliance with this bylaw as part of the joint Liquor Licence Inspection Team inspections. Bylaw Services staff have encountered a lack of awareness on the part of some operators regarding the sign requirement, but no resistance to posting a sign once they become aware of the bylaw. The current fines and penalties provided for by bylaw are sufficient to ensure compliance and there has not been any demonstrable need to increase them due to non-compliance. Staff believe the current wording in the bylaw, where the operator has some choice as to where to post the sign, is reasonable as opposed to having the bylaw dictate where signs must be placed.

**Legal/Statutory Authority:**  
Community Charter, section 8

A handwritten signature in black ink, appearing to be the initials "JK" followed by a horizontal line.

**Legal/statutory Procedural Requirements:**

The bylaw must be deposited with the Minister of Health after third reading.

**External Agency/Public Comments:**

IHA will be circulated a copy of the bylaw at third reading for any comment. Email correspondence from the FASD Awareness Committee is attached.

**Considerations not applicable to this report:**

Existing Policy:

Internal Circulation

Financial/Budgetary Considerations

Personnel Implications

Technical Requirements

Communications Considerations

Alternate Recommendation

Submitted by:



S. Fleming, City Clerk

Approved for inclusion



**From:** Brad Penner [mailto:BPenner@arcprograms.com]  
**Sent:** August 17, 2009 10:15 AM  
**To:** Lesley Driscoll  
**Subject:** RE: FASD Bylaw

Hi Lesley:

Further to our conversations regarding the bylaw and in response to your last email. We have reviewed the bylaw as it currently stands. In addition to changes in the wording (FAS to FASD and Fetal Alcohol Syndrome to Fetal Alcohol Spectrum Disorder) we would like to suggest that wording be changed as follows:

Under sign locations (b) "BL7707 deletes Section 2(b) in it's entirety and replaces it with the following:

"one sign shall be conspicuously displayed in each public washroom located within the premises **or** at least one sign shall be displayed in a conspicuous place which is clearly visible to customers....." We would like to request the word "or be replaced with the "and".

As to other cities in the province and their bylaws:

Invermere bylaw 1177, 2003	a fine not more than \$2000.00
Kamloops bylaw 24-43	a fine not more than \$10,000.00 and not less than \$200
Burnaby bylaw 9777	a fine not more than \$2000.00

There are other bylaws in other cities that comment failure to comply with the bylaw is punishable in accordance with the "Offence Act".

Any other questions please let me know.

Thanks,

Brad

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**From:** Lesley Driscoll [mailto:ldriscoll@kelowna.ca]  
**Sent:** Tuesday, August 11, 2009 1:16 PM  
**To:** Brad Penner  
**Subject:** RE: FASD Bylaw

Good Afternoon Brad,


Further to our conversation, if you could provide a list of cities and their related fines for violating a similar Bylaw, I will provide to Council for consideration.

Thanks,

**Lesley A. Driscoll**, Confidential Secretary  
**Community & Media Relations**

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FAX 250 862-3399

**City of Kelowna** 1435 Water Street, Kelowna, BC V1Y 1J4 [kelowna.ca](http://kelowna.ca)



**From:** Brad Penner [mailto:BPenner@arcprograms.com]  
**Sent:** July 9, 2009 2:35 PM  
**To:** mayorandcouncil  
**Subject:** FASD Bylaw

Your Worship, Mayor Sharon Shepherd & Council:

I am sending this email in regards to the City of Kelowna Bylaw No. 7538. Upon review of the wording in the bylaw, I found the terminology to be out of date and in need of revision. The bylaw currently refers to FAS and Fetal Alcohol Syndrome. This terminology was changed some time ago to FASD and Fetal Alcohol Spectrum Disorder. I would respectfully request the bylaw be revised to reflect the change.

In addition to this, I was informed the fine for non-compliance of this bylaw is \$50.00. I understand the bylaw was enacted in 1995 and may not reflect an adequate incentive for businesses to comply. Upon investigating bylaws in other communities, I noticed the fine to be in the area of \$200.00 and a maximum of \$10,000.00. I would request Council review the fine and perhaps adjust it to more accurately reflect the seriousness of FASD and it's impact on our community.

Yours respectfully,

Brad Penner  
FASD Awareness Day Committee Member  
FASD Keyworker  
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