

		POLICY AND PROCEDURE MANUAL	
Category: Bylaw Enforcement	Number: LEG.06(C)	BYLAW ENFORCEMENT AND COMPLIANCE POLICY	
Type: <input checked="" type="checkbox"/> Policy <input type="checkbox"/> Procedure	Authority: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Administrative	Approved By: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Chief Administrative Officer <input type="checkbox"/> Department Head	
Office of Primary Responsibility: Development Services			
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PURPOSE:

This Policy is intended to outline the City's response to bylaw related complaints. The Policy defines roles and responsibilities for the enforcement of the City's bylaws by providing guidance to staff, elected officials, and the public to ensure administrative fairness in the investigation and enforcement of City Bylaws. This Policy reflects best practices in bylaw enforcement and will be reviewed on a regular basis to remain current with evolving practices and changes in legislation. This Policy may be used as a guide to compliance partners such as the Building Inspections Division and the Fire and Rescue Services.

POLICY:

The primary goal of bylaw enforcement is to gain compliance with municipal bylaws through a tiered process by means of progressive enforcement. In situations where compliance could cause hardship, staff will use discretion and undertake a reasonable and appropriate enforcement approach to achieve compliance over a longer time frame, as outlined in the enforcement policy. Steps towards compliance begin with:

- Voluntary compliance on a case-by-case basis through education; and on to
- formal legal proceedings including tickets and/or court proceedings if voluntary compliance is not achieved.

The City does not have the resources to proactively monitor all areas of the City to confirm compliance with all potentially applicable bylaws. Public property violations are generally enforced proactively while private property violations are usually investigated in response to complaints. This Policy assists staff to outline the consistent approach to bylaw enforcement and investigations to ensure City resources are not being used to investigate vexatious complaints.

GENERAL PROCEDURES:

1. Definitions

“**Bylaw Enforcement Officer**” is a person prescribed under the *Community Charter* who is designated by a local government as a Bylaw Enforcement Officer.

“Bylaw Enforcement Notice” means a ticket issued under the *Bylaw Notice Enforcement Bylaw 5700-2018* and the *Ticket Information bylaw 3646-1993*.

“Chief Administrative Officer” means the individual appointed by Council to the position of Chief Administrative Officer (or his/her designate) as the head of Administration.

“Council” means the duly elected officials of the City, those being the Mayor and Councillors.

“Policy” means general statements or guidelines that are high-level in nature, as opposed to being operationally oriented, which direct a plan, course of action or decision, according to a standard or performance outcome.

“Valid Complaint” means a complaint that describes the location and general nature of a potential bylaw contravention, which includes the complainant’s name, address and telephone number, and which is not a vexatious complaint.

“Vexatious Complaint” means a complaint that is made for retaliatory or bad faith purposes, or otherwise forms part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process or where a previously agreed upon resolution has been made between the complainant and property where the complaint was derived.

2. Enforcement Priorities

2.1 The City’s response to valid complaints is generally prioritized as follows:

Priority #1: Safety - the alleged bylaw violation may adversely impact the environment or public safety: These violations will be investigated and enforced as soon as possible given the availability of staff and other resources. Prior warning notices or education may not be appropriate or practical.

Priority #2 Significant negative impact to adjacent properties - the alleged bylaw contravention is significantly impacting adjacent properties in a negative manner, but it generally does not pose an immediate risk to the health or public safety of the community. The City’s investigation and enforcement of Priority 2 matters will most often be initiated in response to valid complaints received by the City.

Priority #3: General nuisance - the alleged bylaw contravention may be a matter that is a general community concern. These contraventions are less serious in nature and generally do not affect the health or public safety of the community. The City’s investigation and enforcement of Priority #3 matters is initiated in response to complaints. Staff receiving a complaint will use discretion to determine whether there is sufficient geographic or other connection between the complainant and the location of the alleged violation to constitute a valid complaint. Investigating staff will focus on education and will provide opportunities to bring the property or situation into compliance that are appropriate in the circumstances. If a confirmed violation is minor in nature and/or if it appears the complaint may be a vexatious complaint or is part of a larger neighbourhood conflict, staff may conclude it is not in the City’s or community’s best interest to pursue the matter.

3. Complaints

3.1 Bylaw complaints shall be in written form and signed by the complainant. The complaint may be made by letter, email or on a form provided by the City. The City will, upon request, email/mail a complaint form to the complainant.

- 3.2 The complainant is to provide their name, address, telephone number, and nature of the complaint. Anonymous complaints will not be investigated.
- 3.3 The complainant's name is to be kept confidential unless otherwise indicated by that person or where the person may be required as a witness in court.
- 3.4 Complaints that fall within the scope of Priority #1 and require immediate investigation to preserve life or to address immediate health or safety violations or risks to the environment may be made verbally.
- 3.5 While all complaints will be received and logged, not all complaints will be investigated:
 - 3.5.1 Anonymous complaints will not be acted upon unless the alleged violation falls within the scope of Priority #1 or is something the City otherwise proactively enforces.
 - 3.5.2 Vexatious complaints will not be acted on.
- 3.6 The City's bylaw enforcement resources are prioritized to ensure the timely receipt and investigation of complaints. It is not the City's practice to proactively provide follow-up information to complainants. Staff will respond to specific requests for information (subject to confidentiality requirements) as time permits.
- 3.7 Upon receipt of a complaint, City staff will:
 - 3.7.1 Provide acknowledgment of receipt of the complaint;
 - 3.7.2 Conduct a preliminary review of the complaint to ensure it is a valid complaint and directly relates to an enforceable bylaw;
 - 3.7.3 Log and record the complaint and assign it to an Enforcement Officer for follow-up and investigation; and
 - 3.7.4 Direct the complainant to the appropriate agency if the complaint is outside the City's jurisdiction.

4. Investigation and Enforcement

- 4.1 Upon receipt of an assigned valid complaint, enforcement officers begin an investigation in accordance with the priorities described in this policy and by operational procedures developed by staff.
- 4.2 Education is the preferred first step with time given to comply with the bylaw. Some options for obtaining voluntary compliance may include education, mediation discussions, warning notices, information and non-penalty enforcement, including providing a reasonable timeframe to comply with requirements. Verbal or other non-formal steps to obtain compliance may be made in the early stages of an investigation, where possible, with respect to non-reoccurring bylaw contraventions.
- 4.3 If, in the discretion of the Bylaw Enforcement Officer, a bylaw complaint can be resolved by facilitating or referring to a mediation process to develop a mutually acceptable agreement between the complainant and the respondent, this mediation approach may be attempted. In cases where such an agreement is reached, the complainant may elect to voluntarily withdraw the complaint, closing the City's file. It is important to note that a mediated solution between the two parties does not remove the right of other parties to file a separate complaint in the future.
- 4.4 Occasionally, compliance based on education or warning notices may not be appropriate or effective. In some cases, a more direct enforcement approach is required

and may include immediate ticketing. In determining whether to issue a bylaw fine, the Enforcement Officer may consider one or more of the following criteria:

- 4.4.1 if human health, safety or security is at risk;
 - 4.4.2 if environmental safety or security is at risk;
 - 4.4.3 if the infraction is occurring on public property;
 - 4.4.4 if Council has prioritized direct enforcement to address a specific issue or type of issue; and/or
 - 4.4.5 if the offence is reoccurring.
- 4.5 Staff may establish enforcement timing and deadlines based on individual and operational factors. Bylaw Enforcement Officers may share deadlines with complainants.
 - 4.6 Bylaw Enforcement Notices may be issued at the discretion of a Bylaw Officer and in accordance with this Policy and the *Local Government Act*.
 - 4.7 Enforcement records and file contents shall not be disclosed to anyone except in accordance with the requirements of applicable privacy and access to information legislation, or a specific court order or court ruling in relation to bylaw litigation.
 - 4.8 In circumstances where complaints do not fall in line with the guiding priorities or the complaint is or becomes civil in nature, Bylaw Enforcement staff may offer recommendations to a complainant to seek assistance for a resolution agreement through other means of restorative resolution options such as private mediators.

5. Bylaw Notice and Decision Appeal Process

- 5.1 Bylaw tickets issued in accordance with the *Bylaw Notice Enforcement Bylaw 5700-2018* are disputed through the Bylaw Dispute Adjudication System as set out in the *Local Government Bylaw Notice Enforcement Act* and *Bylaw Notice Enforcement Bylaw 5700-2018*. In those disputes, the decision of the Adjudicator is final. Investigations that resulted in tickets being issued and subsequently overturned at adjudication, will be concluded and only re-opened if new information is received and investigated according to this Policy.
- 5.2 Bylaw Enforcement Officer decision appeals may be considered by the Bylaw Manager, Director, Deputy Chief Administrative Officer or Chief Administrative Officer.
- 5.3 In the case of a civil injunction that require a property owner to cease an unlawful activity or face significant court-imposed penalties, an appeal request can be made in writing and may include a delegation request to a Council meeting.

6. Role of Elected Officials

- 6.1 City Council establishes overall priorities for enforcement, enacts bylaws, and adopts bylaw enforcement policies for Bylaw Enforcement staff.
- 6.2 City Council considers enforceability, capacity and staffing when developing or adopting a new bylaw. Insufficient enforcement capacity may defeat the purpose of enacting a bylaw in the first place.
- 6.3 To maintain an administratively fair and unbiased bylaw enforcement system, there is a separation between the role of elected officials who set overarching policy and priorities and City staff's role to execute procedures as established and outlined in this policy.

This Policy recognizes the challenges faced by elected officials to remain at arms-length from the day-to-day enforcement process when they are often the main point of contact for members of the public who have complaints or who have been the subject of enforcement. In these situations, it is important to support the bylaw enforcement team and request that the member of the public contact the City's Bylaw Services office directly.

- 6.4 Elected official inquiries relating to bylaw enforcement matters shall be directed to the Chief Administrative Officer to be distributed to the Director or Manager of Bylaw Enforcement.
- 6.5 City Council may have a role in an appeal process or delegation and may be the final decision-maker. To avoid the risk of bias or pre-judgement in these cases, Council members should not be involved in earlier steps in the bylaw enforcement process.

7. Legal Opinion or Court Intervention

- 7.1 The Manager of Bylaws and Licensing or the Director of Development Services shall inform the Deputy Chief Administrative Officer or the Chief Administrative Officer when bylaw enforcement investigations require a legal opinion or intervention through the court.

RELATED POLICIES, PROCEDURES, AGREEMENTS AND/OR BYLAWS:

This Policy replaces LEG.05(PC) Bylaw Enforcement Complaint Procedure.

***** END OF POLICY *****

RECORD OF AMENDMENTS/REVIEW

<u>Policy #</u>	<u>Date Adopted</u>	<u>Date Reviewed</u>	<u>Amended (Y/N)</u>	<u>Date Reissued</u>	<u>Authority (Resolution #)</u>
LEG.06(C)	Sept 6, 2022				RC22-421