

**PUBLIC SAFETY COMMITTEE**

TO:           MAYOR AND COUNCILLORS

SUBJECT:    BURNABY BYLAW ENFORCEMENT POLICY

**RECOMMENDATION:**

1. **THAT** Council approve the implementation of a Bylaw Enforcement Policy, as outlined in this report.

**REPORT**

The Public Safety Committee, at its meeting held on February 22, 2023, received and adopted the attached report seeking Council approval to implement a Bylaw Enforcement Policy.

Respectfully submitted,

Councillor J. Wang  
Chair

Councillor M. Santiago  
Vice Chair

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**TO:** CHAIR AND MEMBERS  
PUBLIC SAFETY COMMITTEE

**DATE:** 2023 Feb 06

**FROM:** GENERAL MANAGER COMMUNITY  
SAFETY

**SUBJECT:** BURNABY BYLAW ENFORCEMENT POLICY

**PURPOSE:** To obtain Committee and Council endorsement to implement a Bylaw Enforcement Policy as described in this report.

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**RECOMMENDATION:**

1. **THAT** Public Safety Committee recommend Council endorse the implementation of a Bylaw Enforcement Policy as described in this report.

**REPORT**

**1.0 INTRODUCTION**

In 2016 the Office of the Ombudsperson for BC published a report entitled *Bylaw Enforcement: Best Practices Guide for Local Governments* (Attachment 1). The report noted that since 1995, the year that the Office of the Ombudsperson was given jurisdiction to investigate complaints about local governments in British Columbia, each year their office receives a number of complaints about how local governments go about enforcing their bylaws. Although these complaints vary widely in subject, a recurring message often heard from complainants is the perception that local governments' bylaw enforcement practices often lack administrative fairness.

The Ombudsperson described administrative fairness broadly as "an overall approach to administrative decision-making that is transparent, fair and accountable". By ensuring administrative fairness is consistently reflected within a bylaw program, a local government increases the public perception of being responsive, transparent and accountable to its citizens.

The report suggests a significant step that local governments can take to demonstrate their commitment to administrative fairness is to adopt a Bylaw Enforcement Policy. By taking this action it "allows Council to outline, in a public way, the goals of the local government's bylaw enforcement program and to set clear expectations and standards for bylaw enforcement".

Additionally the benefits of a clearly articulated and appropriately followed Bylaw Enforcement Policy, include:

- provides a framework against which Council or others can evaluate the enforcement process and is a useful tool for training staff;
- promotes the efficient use of resources by addressing matters that frequently arise;
- assist staff defending against allegations of conflict or unfair process; and
- helps a local government respond fairly to the inevitable question, "why me?" when it takes enforcement action against an individual.

The purpose of this report is to submit a draft copy of a proposed Bylaw Enforcement Policy for Burnaby to the Public Safety Committee, provide information of its content, and to recommend the Committee support the formal implementation. It is further recommended, that the Committee forward a copy of this report to Council in order to request their endorsement of the policy as well.

## **2.0 POLICY SECTION**

Improving customer service and addressing citizen concerns aligns with policy objectives contained in the City's Moving Forward initiative and the Burnaby Community Safety Plan (2020).

## **3.0 RECOMMENDED CRITERIA TO INCLUDE IN A BYLAW ENFORCEMENT POLICY**

The Ombudsperson's report recommended incorporating various criteria, based on administrative fairness principles, to ensure an effective Bylaw Enforcement Policy. Accordingly, the policy should:

- be written in plain language that is easily understood and applied;
- clearly spell out the policy objectives;
- be flexible enough to cover a variety of circumstances where staff must exercise discretion;
- not fetter staff in exercising discretion by requiring them to take the same steps in each case, regardless of the circumstances, or discouraging individual responsibility for decisions;
- set out the relevant considerations that staff should take into account when exercising discretion;
- set out its relationship to governing legislation and bylaws;
- be communicated to staff;
- be readily accessible to the public (such as published on an easily found website), and;

- be routinely reviewed and revised as appropriate given changing circumstances in the community.

#### 4.0 DRAFT BYLAW ENFORCEMENT POLICY

In response to, and following the criteria of the Ombudsperson’s report, various City staff groups that are routinely engaged in bylaw enforcement have worked collectively to draft a Bylaw Enforcement Policy for the City of Burnaby (Attachment 2). The policy contains information as further outlined below.

**Policy Statement** begins the policy and describes the purpose and intent of the bylaw enforcement program in general, “to ensure public safety and to maintain community harmony”. The statement also addresses the overall reason for the policy itself, “to provide transparency and general guidance for members of the public, elected officials, and City employees”.

**Section one** of the policy defines the terms commonly used within the document. Throughout the policy these defined terms are displayed in bold print to ensure a reader understands the intended meaning.

**Section two** describes the City’s overall approach to bylaw enforcement. It is recognized that in most cases the City attempts to resolve noncompliant situations by working cooperatively with violators in an effort to achieve voluntary compliance.

This section also illustrates the typical four step “Progressive Enforcement Model” the City would normally follow in attempts to achieve compliance.

- Step 1 - Education, such as placing signage, issuing verbal or written warnings and other measures designed to build public awareness
- Step 2 - Issuing Violation Notices (tickets) with a prescribed fine amount.
- Step 3 – Undertaking Direct Enforcement including actions like canceling or suspending a business licence, posting a, stop work order, or have City staff enter on to private property to perform cleaning of the property.
- Step 4 – Initiating legal action against a violator.

**Section three** describes how a Request for Service (complaint) can be lodged and the information that is required from a person when filing a request. A person lodging a complaint must provide their name, address, a valid telephone number and/or email address, a general description of the alleged bylaw contravention, and the address or location where the alleged contravention is or has occurred.

This section further advises that anonymous complaints will not be received unless it can be clearly demonstrated that the bylaw contravention being reported poses a significant risk to human health, the natural environment, or general community safety.

Section three, also instructs that although the City endeavors to keep information confidential, personal information may be disclosed in circumstances such as an FOI request, under court order, or if the complainant voluntarily discloses or agrees to appear as a witness.

**Section four** describes how staff will go about Recording, Assessing and Investigating a request for service. This includes requirements such as inputting complaint information into the system; contacting a complainant within 3 business days to acknowledge receipt and provide contact detail; advising complainants that if a request is not a bylaw violation the City may still potentially provide assistance, and; storing all information collected by staff during investigation (letters, photographs, emails, etc.) in the system.

Section four also describes how the City may choose to respond to any request for Service on a priority basis, where;

- Priority 1 (Significant) - The alleged bylaw contravention has the potential to cause material adverse impact to the environment, property, or public safety.
- Priority 2 (Moderate) - The alleged bylaw contravention is negatively impacting three (3) or more adjacent property owners or occupiers but does not pose an immediate risk to the environment, property, or public safety.
- Priority 3 (General) – The alleged bylaw contravention is negatively impacting one property and is minor in nature.

**Section five** outlines the distinct roles of Elected Officials and City staff as it relates to bylaw enforcement. In this section the policy recognizes that Council has responsibility for enacting bylaws and establishing regulatory requirements for the overall benefit of the community. The policy also identifies that Council has authority to provide general direction for bylaw enforcement priorities.

By contrast, staff tasked with enforcement responsibilities must ensure the bylaws established by Council are consistently being upheld.

**Section six** of the policy relates to Reporting Outcomes. The policy states that it is not the City's practice to provide ongoing updates to a requestor on the status of enforcement activity. However, the policy does acknowledge that enforcement staff may choose to share some details to citizens provided the information is not protected (e.g. personal information).

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**Section seven** of the policy relates to General Information. This section describes the intent of the policy; directs members of the public to submit a Freedom of Information request if they are seeking additional details about a complaint; advises that the policy can be waived on a case-by-case basis at the City's discretion, and; directs persons disputing a violation notice to the adjudication process.

## 5.0 RECOMMENDATION

In an ongoing effort to improve public transparency and in consideration of the recommendations contained in the Ombudsperson's report, staff recommend that the Public Safety Committee recommend Council endorse the implementation of a Bylaw Enforcement Policy as described in this report.



Dave Critchley  
General Manager Community Safety

Copied to: Deputy Chief Administrative Officer and Chief Financial Officer  
General Manager Planning and Development  
General Manager Parks, Recreation and Culture  
OIC Burnaby RCMP  
Fire Chief  
Chief Licence Inspector  
City Solicitor

Attachments: 1) Bylaw Enforcement: Best Practices Guide for Local Governments  
2) Draft Burnaby Bylaw Enforcement Policy