



CITY OF BURNABY BYLAW ENFORCEMENT POLICY

Department:	Community Safety	Division:	Bylaw Services
Policy area:	Bylaw Enforcement		
Policy No.:			
Subject:	Bylaw Enforcement Policy		
Issued to:	All City staff responsible for bylaw enforcement		
Issued date:	TBD	Effective date:	TBD
Approved by:	<hr/> Leon Gous Chief Administrative Officer	<hr/> Dave Critchley General Manager Community Safety	

POLICY STATEMENT

The primary goals of **bylaw** enforcement in the **City** are to ensure public safety and to maintain community harmony. This policy will provide a broad framework in regards to general **bylaw** enforcement practices within the **City**. It is intended to provide transparency and general guidance for members of the public, elected officials, and **City** staff with respect to how the **City** responds to calls for service related to **bylaw** contraventions.

The **City** acknowledges that it does not have the resources to proactively monitor all areas of the **City** and confirm compliance with all applicable **bylaws**. As a result, investigations into **bylaw contraventions** are generally in response to the receipt of a valid **Request for Service**.

The **City** promotes an enforcement philosophy that seeks voluntary **bylaw** compliance in respect to most matters. However, enforcement based on education and warnings is not appropriate in all circumstances. More direct enforcement approaches, including immediate ticketing, may occur in situations where:

- environmental or human health, safety or security is at risk;
- the contravention is occurring on public property;
- the contravention is significantly impacting surrounding property;
- the contravention is part of a history or pattern of repeat behaviour;
- the resources required to resolve the matter voluntarily are limited; or
- Council has prioritized direct enforcement to address a specific issue or type of issue.

1 DEFINITIONS

In this policy;

“ bylaw ”	means any City bylaw that has been duly enacted by Burnaby City Council
“ bylaw contravention ”	means any action, undertaking or situation that does not comply with any City bylaw regulation or provision
“ Bylaw Enforcement Officer ”	means the person or persons designated as bylaw enforcement officers under the <i>Burnaby Bylaw Notice Enforcement Bylaw</i>
“ Bylaw Violation Notice ”	means a violation notice issued pursuant to the <i>Burnaby Bylaw Notice Enforcement Bylaw</i>
“ City ”	means the City of Burnaby
“ person ”	includes a corporation, partnership or party, and the legal or personal entity or other legal representative of a person to whom the context may apply under this policy or a bylaw
“ Request for Service ”	means an application submitted pursuant to the requirements described in this policy, asking the City to take action in regards to a perceived or actual bylaw contravention
“ Requestor ”	means the person submitting a Request for Service

2 APPROACH TO BYLAW ENFORCEMENT

2.1 In most cases, the **City** will attempt to resolve instances of a **bylaw contravention** by way of progressive enforcement, where education serves as the foundation. The objective is to achieve compliance with **City bylaws** without more punitive or formal legal measures. Progressive enforcement should generally follow the below four-step process:

- (a) Step 1: Community Education. Steps are taken to ensure members of the public are informed of **bylaw** requirements. Common actions include posting **bylaw** information on the City’s website, providing verbal or written direction from **City** staff, and placing signage to inform the public of various **bylaw** requirements (i.e. parking restrictions, no smoking areas, requirements for dogs to be leashed, etc.).
- (b) Step 2: Voluntary Compliance. At this step, an opportunity to correct the **bylaw contravention** is provided. Often this will entail providing a reasonable time period in order to remedy the **bylaw contravention**.
- (c) Step 3: Strict Enforcement. Actions taken at this step may include issuing a **Bylaw Violation Notice**, suspending or cancelling a business licence, posting a stop work order, or undertaking direct action by the **City** to correct the **bylaw contravention**.

- (d) Step 4: Formal Legal Action. Where preceding progressive enforcement steps have not resulted in **compliance**, the **City** may pursue legal actions such as seeking an injunction, undertaking a **bylaw** prosecution, or similar legal remedies.

2.2 Progressive enforcement steps can be set aside and more immediate actions taken in situations where:

- (a) the environment or human health, safety, or security are at risk;
- (b) the **bylaw contravention** is significantly impacting surrounding property;
- (c) the **bylaw contravention** is occurring on **City**-owned lands;
- (d) the contravention is part of a history or pattern of repeated behaviour;
- (e) the resources required to resolve the matter voluntarily are limited; or
- (f) Council has prioritized direct enforcement to address a specific issue or type of issue.

2.3 In all circumstances, the City maintains discretionary authority regarding the manner and method used to enforce any particular **bylaw contravention**, including the ability to choose not to enforce, or to suspend enforcement of, a **bylaw contravention**.

3 SUBMITTING A REQUEST FOR SERVICE

3.1 A **Request for Service** can be submitted to the **City** by a member of the public, **City** staff or **City** Council member through the **City**'s online feedback form, by letter, email, phone, or in person.

3.2 When submitting a **Request for Service**, a **Requestor** 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.

3.3 Except in situations where a **bylaw contravention** poses a significant risk to human health, the natural environment, or general community safety, a **Request for Service** that is received anonymously will not be recorded or otherwise acted upon.

3.4 A **Requestor** may be asked to take additional steps after placing a **Request for Service** as part of the **City**'s enforcement process (i.e. keep a log of the times and dates of occurrences).

3.5 A **Requestor** should keep the **Bylaw Enforcement Officer** apprised of whether a situation improves or worsens.

3.6 From time to time, a **City** Council member may submit a **Request for Service**, either as a private citizen or on behalf of a member of the public. In such cases, the Council member will be recorded as the **Requestor** and the process for seeking compliance, as outlined in this policy, will be followed.

3.7 The **City** endeavors to keep the identity of every **Requestor** confidential; however, anonymity cannot be assured in all circumstances, particularly if a **Request for Service** has been publicly disclosed by the **Requestor**, or:

- (a) if disclosure is required by Court order, subpoena, warrant or other similar judicial or quasi-judicial process;
- (b) if disclosure is required under the *Freedom of Information and Protection of Privacy Act* (BC);

- (c) if disclosure is required as part of the disclosure process in the event of a prosecution or civil proceeding; or
- (d) if the person to whom the personal information pertains consents to the disclosure.

4 RECORDING, ASSESSING AND INVESTIGATING REQUEST FOR SERVICE

- 4.1 All **Requests for Service** will be entered into the **City's** database for tracking, follow-up, resolution and statistical recording. As part of creating a valid **Request for Service**, the information recorded in the **City's** database may include the requestor's contact information and a general description of the alleged **bylaw contravention**.
- 4.2 All **Requests for Service** will be assigned to a **Bylaw Enforcement Officer** for possible investigation.
- 4.3 On receipt of a **Request for Service**, a **Bylaw Enforcement Officer** will review the complaint to determine if:
 - (a) the **Request for Service** is in regards to an actual **bylaw contravention**, or is the matter at issue is the result of a conflict unrelated to a **bylaw contravention** (i.e. a neighbourhood dispute, a real property dispute, or a similar civil matter); and
 - (b) the **City** has authority to enforce in regards to the **Request for Service**, or if responsibility for enforcement falls to another entity or government agency (i.e. bylaws enacted by strata corporations, tenancy issues regulated under the *Residential Tenancy Act*, liquor licence violations, etc.)
- 4.4 While all **Requests for Service** are to be received and recorded, not all will be investigated in person.
- 4.5 Response to a **Request for Service** is generally prioritized as follows:
 - (a) **Priority #1: Significant** - The alleged **bylaw contravention** has the potential to cause material adverse impact to the environment, property, or public safety.
 - (b) **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.
 - (c) **Priority #3: General** – The alleged **bylaw contravention** is negatively impacting one property and is minor in nature.
- 4.6 The **Bylaw Enforcement Officer** assigned to the **Request for Service** will contact the **Requestor** within 3 business days to acknowledge receipt of the **Request for Service** and to provide the **Requestor** with their contact information.
- 4.7 A **Bylaw Enforcement Officer** may conduct a site inspection of the property and/or business premises subject to a **Request for Service** to investigate if a **bylaw contravention** is or has occurred. All site inspections will be conducted in accordance with applicable law.
- 4.8 When determining appropriate enforcement action, **Bylaw Enforcement Officers** will exercise discretion in consideration of the specific circumstances of the contravention, including the level

of priority, the City's progressive enforcement process, the history of the contravention and the methods for achieving compliance.

- 4.9 All records of a **Bylaw Enforcement Officer's** enforcement activity, including notes or observations taken in the field, digital photographs, copies of correspondence and other related materials, will be recorded in the **City's** database and retained in compliance with **City** policies.

5 ROLE OF ELECTED OFFICIALS AND STAFF IN ENFORCEMENT

- 5.1 **City** Council enacts **bylaws**, establishes regulatory requirements for the overall benefit of the community, provides general direction for **bylaw** enforcement priorities and for some **bylaw contraventions**, has authority to reconsider decisions delegated to **City** staff. To maintain administrative fairness and to ensure an unbiased **bylaw** enforcement process, a distinct separation between the role of Council members, who set overarching policy and priorities, and **bylaw** enforcement staff, who execute enforcement procedures, is required.
- 5.2 This policy recognizes that Council members are often contacted by persons who have been the subject of **bylaw** enforcement. In these situations, Council members should direct the member of the public to contact the Bylaw Services Division directly for the appropriate information and next steps in the **bylaw** enforcement process.
- 5.3 To maintain impartiality, Council members should endeavor to remain uninvolved in specific **bylaw** enforcement files or decisions until, if applicable, such time that a matter is placed on a Council agenda for all Council members to consider.

6 REPORTING OUTCOMES

- 6.1 It is not the **City's** practice to provide ongoing updates to a **Requestor** on the status of enforcement activity.
- 6.2 **Bylaw Enforcement Officers** may choose to provide general information to a **Requestor**, subject to confidentiality requirements, on a case-by-case basis.
- 6.3 In most circumstances a **Requestor** will not be advised when a matter has been resolved and/or enforcement action has ceased.

7 GENERAL INFORMATION

- 7.1 This policy is intended to guide **City** staff and Council members in matters of **bylaw** enforcement.
- 7.2 Subject to other applicable legislation and **bylaws**, enforcement of **City bylaws** is discretionary and the **City** has the authority to waive the entirety or portions of this policy on a case-by-case basis.
- 7.3 A **Requestor** or other persons requiring detailed information related to a **Request for Service, bylaw contravention**, or a similar matter, must submit a Freedom of Information Request Form to the Legislative Services Division.

7.4 To dispute a **Bylaw Violation Notice**, the person served with the notice must follow the process described in the *Burnaby Bylaw Notice Enforcement Bylaw*, as amended or replaced from time to time.

Version:	Date:	Description:	Updated by:
1	TBC	Bylaw Enforcement Policy	Dan Layng