

Policy Title	Bylaw Compliance
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<u>Effective Date:</u> January 20, 2020	<u>Authorized By:</u> Mayor and Council Regular Meeting of January 20, 2020	<u>Replaces:</u> Bylaw Enforcement Policy - November 1, 2010
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PURPOSE:

The objective of this Policy is to obtain bylaw compliance through education and, when necessary, enforcement. In addition, this Policy provides a formal process for managing bylaw complaints received by the City.

POLICY:

GENERAL

1. For the purpose of this policy, a “Bylaw Enforcement Officer” includes a municipal employee, agent, or any other person appointed by Council to ensure compliance with City of Enderby bylaws.
2. A Bylaw Enforcement Officer, acting in the regular course of his or her duties, may initiate investigations and conduct inspections to determine compliance with all regulations, prohibitions and requirements of City bylaws and may enter onto private property in accordance with Section 16 of the *Community Charter* for the following purposes:
 - a. To inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the City may lawfully exercise its authority to regulate, prohibit or impose requirements;
 - b. To take municipal action at defaulter’s expense; and
 - c. To disconnect or remove works of a service.

INVESTIGATIONS

3. Bylaw compliance investigations will generally be triggered through the following mechanisms:
 - Complaints from the public;
 - Issues identified through regular patrols; and

- Proactive reviews of unsightly properties, derelict vehicles, and cases where there are ongoing compliance issues.
4. A complaint of an alleged contravention of a bylaw must be submitted in writing (email, letter or complaint form), and must contain:
 - a. The name, address and contact information of the complainant; and
 - b. A description of the nature and location of the alleged contravention.
 5. Anonymous complaints will not be acted upon unless the alleged violation involves risk to public health and safety, adverse environmental impacts, and/or harm to City infrastructure or operations.
 6. All written complaints are directed to a Bylaw Enforcement Officer and will be logged for tracking purposes.
 7. Complaints will be investigated on a priority basis using the following criteria:
 - Health, safety, and security of the public;
 - Damage to the environment;
 - The impact of the violation on the community;
 - The impact of the violation on the complainant;
 - The nature of the complaint and the allegation (i.e. repeat offence).
 8. On receipt of a written complaint, the City will acknowledge receipt of the complaint in writing or by phone to the complainant. Not all types of complaints necessitate that the Bylaw Enforcement Officer contact the complainant to advise of the file outcome.
 9. The Bylaw Enforcement Officer may contact the complainant to:
 - a. Request additional information or details;
 - b. Provide expected timelines for the complaint to be addressed;
 - c. Provide reasons why the complaint will not be investigated; and/or
 - d. Advise the complainant that additional steps should be taken before enforcement action is taken.
 10. A preliminary review of a complaint will be undertaken by the Bylaw Enforcement Officer to ensure that the complaint is well founded. The preliminary review may be limited to a phone call to the complainant, a site investigation, or a courtesy visit or note for the respondent clarifying the bylaws.
 11. The Bylaw Enforcement Officer may not investigate an issue if, through the preliminary review, it is determined that:
 - a. No violation exists or compliance has already been achieved;

- b. The matter is a civil matter;
- c. The matter falls outside the jurisdiction and authority of the Bylaw Enforcement Officer;
- d. The City cannot take enforcement action; or
- e. It is a repeated complaint, frivolous complaint (not having any serious purpose of value), or vexatious complaint (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 bylaw compliance process).

CONFIDENTIALITY

12. The identity of a complainant is confidential and will not be disclosed to anyone for any purpose, except as required by law, and in accordance with the following provisions:
- a. The complainant's identity shall not be disclosed to the person under investigation or to any member of the public;
 - b. Where a person submits a request pursuant to the *Freedom of Information and Protection of Privacy Act* for the disclosure of personal information contained in a bylaw compliance file, it shall be the City's policy to not release the records unless in accordance with Section 12.c below;
 - c. Despite the foregoing, the City may disclose personal information in bylaw compliance files in the following circumstances:
 - i. If the complaint has been publicly disclosed by the complainant;
 - ii. If the investigation results in legal proceedings;
 - iii. If disclosure is required pursuant to the *Freedom of Information and Protection of Privacy Act*;
 - iv. If an order for disclosure is used by the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*;
 - v. As required by law; or
 - vi. To a Peace Officer, upon request, for law enforcement purposes.

ENFORCEMENT

13. The City cannot take enforcement action with respect to every contravention of a bylaw that may occur within its jurisdiction. Bylaw compliance initiatives/actions will be determined by available capacity, resources, and the nature of the complaint. The City will take reasonable steps to investigate contraventions in accordance with this policy and operational guidelines

of the City. In determining whether to commence enforcement proceedings, the City may consider one or more of the following criteria:

- The priorities identified in Section 7 of this Policy;
- The scale, nature, and duration of the contravention;
- The amount of time that has lapsed since the contravention occurred;
- The resources available to resolve the matter;
- The costs associated with enforcement action;
- The probability of a successful outcome;
- The policy implications of the enforcement action and the potential for precedents;
- Whether enforcement may be a deterrent in future cases.

14. The City's primary objective shall be to obtain voluntary compliance; however, if voluntary compliance is not achieved, or in the Bylaw Enforcement Officer's opinion voluntary compliance is not achievable, the City may exercise enforcement powers in accordance with the following remedies:

- a. The issuance of an Order to Comply;
- b. The issuance of a Bylaw Offence Notice or Municipal Ticketing Information;
- c. Prosecutions under the Offence Act, and any other remedy as set out in Section 260 of the *Community Charter*;
- d. Proceedings as set out in Section 274 of the *Community Charter*;
- e. Remedial action and any other remedy as set out in Part 3, Divisions 5-12 of the *Community Charter*, and the City may further seek to fulfill those requirements at the expense of the person in contravention, in accordance with the provisions of Section 17 of the *Community Charter*.

15. The City retains the right not to commence enforcement proceedings at its sole and unfettered discretion.

16. The Bylaw Enforcement Officer shall maintain a written record of inspections and investigations undertaken and record the disposition of all complaints received.

REPORTING

17. Bylaw Compliance statistics, trends and categories of files shall be reported to Council tri-annually.