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Council Policy

BYLAW ENFORCEMENT

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Rescinded: 401, 402, 403

Contact Department: Building Inspections and Bylaw Services

Purpose

The purpose of this policy is to provide guidance to staff for the receipt of complaints, the fair and efficient prioritization of complaints, and for the initiation of investigation and enforcement proceedings related to bylaw contraventions in the City of Grand Forks (the "City").

Scope

This Policy applies to staff engaged in bylaw enforcement activities on behalf of the City and/or persons who act in the job positions or titles listed in Column 4 Schedule A of the Municipal Ticket Information Bylaw as amended or replaced from time to time.

Definition

- a. **Bylaw** means a bylaw adopted by the City of Grand Forks.
- b. **Bylaw Enforcement Officer** means a person or persons appointed from time to time by resolution of City Council pursuant to Section 36 of the Police Act, the purpose of which is to enforce regulatory bylaws of the municipality.
- c. **Chief Administrative Officer (CAO)** means one employee of council as defined by City of Grand Forks Policy 115 as amended or replaced from time to time.
- d. **Community Charter** means the *Community Charter* [SBC 2003] Chapter 26 as amended or replaced from time to time.
- e. **Police Act** means the *Police Act* [RSBC 1996] Chapter 367 as amended or replaced from time to time.
- f. **Valid Complaint** means a complaint about a potential bylaw contravention that contains the following information:
 - i. the complainant's name, address, and telephone number;
 - ii. the location and general nature of the potential bylaw contravention, such as the 'who', 'what', 'where,' and 'when' of the issue;
 - iii. the complainant's desired resolution;
 - iv. any previous attempts by the complainant to resolve the issue; and
 - v. is not made anonymously or as a retaliatory or mischievous complaint.
- g. **Retaliatory or Mischievous Complaint** means a complaint that was not made in good faith, including where, in the opinion of a Bylaw Enforcement Officer, the complaint was made for vindictive or bad faith purposes; forms part of a pattern of conduct by the complainant that amounts to an inappropriate use of the complaint process; or does otherwise not qualify as a valid complaint.

Guiding Principles

The primary goals of bylaw enforcement in the City are to ensure public safety and to maintain community harmony.

The City promotes an enforcement philosophy that seeks voluntary bylaw compliance in respect of most private property matters. Education is usually the first step and offenders are usually provided time to comply with the bylaw. Ticketing is generally seen as a tool to be used only where cooperation and compliance cannot reasonably be achieved.

The City's approach to bylaw enforcement is primarily complaint-based. The City has no duty to take enforcement action for each bylaw contravention that may occur. The City does not have the resources to proactively monitor all areas of the City to confirm compliance with all potentially applicable bylaws. The City will use discretion, on a case-by-case basis, to evaluate bylaw contraventions and take reasonable steps to investigate contraventions in accordance with the guidelines in this policy.

Council may provide additional policy guidance or direction on specific complaint or enforcement issues.

Guidelines

The following guidelines will be considered in the City's bylaw enforcement activities. An example is included within this policy to show the typical actions taken to achieve Bylaw compliance.

a) Complaints

- i. Individual complaints about a bylaw contravention may be received by the City in person, by phone, in writing or via email.
- ii. The City may be the complainant, only under circumstances where a lack of compliance represents substantial harm to the City's interest.
- iii. It is the responsibility of a person making a complaint to ensure their complaint meets the criteria for a valid complaint under this Policy.
- iv. The City will record valid complaints for the purposes of tracking, follow-up, and statistical analysis of bylaw contraventions.
- v. All valid complaints will be reviewed and responded to by the City in a timely manner, in accordance with the guidelines in this Policy.
- vi. Retaliatory or mischievous complaints will not be acted upon

b) Investigations

- i. Investigations regarding a potential bylaw contravention may be initiated after the City has received a valid complaint, or by a Bylaw Enforcement Officer who, acting in the regular course of their duties, learns a contravention of a bylaw may be taking place.

- ii. The investigation of an alleged bylaw contravention is at the discretion of the City. Complaints may not be investigated or otherwise acted on if, in the opinion of a Bylaw Enforcement Officer, they:
 - do not qualify as a valid complaint under this Policy;
 - are not made by a person who is directly affected by the alleged bylaw violation; or,
 - are primarily related to a dispute between two private parties, including situations where complaints are based on matters such as fences between privately-owned properties.
- iii. Complaints will be investigated in consideration of the following priorities, which appear in ranked order:
 - High Priority – issues which affect the health, safety, and security of the public or a property.
 - Medium – issues that affect the surrounding properties.
 - Low – issues that are general nuisances or minor infractions that do not affect the health, safety, and security of the surrounding properties.
- iv. The City will maintain a record of inspections and investigations undertaken.
- v. The City is not required to proactively provide follow-up information to complainants. Staff may respond to specific requests for information, subject to confidentiality requirements.

c) Enforcement

- i. Bylaw enforcement is at the discretion of the Chief Administrative Officer or designate. In determining whether to commence bylaw enforcement proceedings, the City may consider one or more of the following criteria:
 - The scale, nature, extent, and severity of the bylaw contravention;
 - The amount of time that has elapsed since the contravention occurred;
 - The impact of the contravention on public safety or health;
 - The resources available to resolve the matter; or,
 - Whether or not enforcement may be a deterrent against future bylaw contraventions.
- ii. A primary objective in enforcing bylaws is to obtain voluntary compliance. The City may encourage voluntary compliance through public education about the City's bylaws on the City's website and social media website as well as the local newspapers.
- iii. Enforcement proceedings will generally commence when voluntary compliance to correct any bylaw infractions is not achieved. The enforcement proceedings that the City may rely on include, but are not limited to:

- An Order to Comply;
 - A Municipal Ticket or Bylaw Offence Notice, including under section 264 of the Community Charter;
 - Injunctions or Court Orders, including prosecutions under the Offence Act, and any other remedies as set out in sections 260 and 274 of the Community Charter;
 - Remedial action, with the costs of the remedial action to be at the expense of the person in contravention of the bylaw, as set out in section 17 of the Community Charter;
 - Other remedies available under the relevant legislation and at common law.
- iv. The City is committed to the safety of its Bylaw Enforcement Officers and staff. Where Bylaw Enforcement Officers or staff have concern for their safety in the performance of their bylaw enforcement duties, they may be accompanied by the Royal Canadian Mounted Police (RCMP).
 - v. Bylaw enforcement matters occurring outside regular business hours may be referred to the RCMP. Regular business hours are generally Monday to Friday, 8:00 AM to 4:00 PM.
 - vi. Complaints regarding the Building Bylaw or the Sign Bylaw are referred to the Building Inspector or Building Official, who is appointed as a City Bylaw Enforcement Officer to enforce those bylaws.
 - vii. Complaints regarding the Electrical bylaw are referred to the CAO or designate.
 - viii. Where applicable, the City may refer complaints to a contractor that is designated to enforce the City's bylaws. For example, valid complaints regarding animals may be referred to Society for the Prevention of Cruelty to Animals (SPCA) or to the Regional District of Kootenay Boundary (RDKB).
 - ix. The City is authorized to enter property in accordance with section 16 of the Community Charter.

d) Confidentiality

- i. Confidentiality is necessary to ensure complainants are not exposed to retaliation or other adverse actions as a result of the complaint, and to maintain effective investigation techniques. The identity of the complainant and any identifying information will not be disclosed to the alleged offender or any member of the public, except as as authorized or required by law. Likewise, the details of the City's investigation and enforcement steps will not be disclosed to the complainant.
- ii. The City is committed to its privacy and confidentiality obligations under the Freedom of Information and Protection of Privacy Act.
- iii. The City will make best efforts to inform the complainant if the identity of the complainant is to be disclosed as part of a bylaw enforcement proceeding. Situations in which complainant

information or information about an individual's alleged bylaw contraventions may be disclosed include where the information is:

1. Required by Court order, warrant or other similar judicial or quasi-judicial process;
2. Required under the Freedom of Information and Protection of Privacy Act;
3. Required as part of the disclosure process in the event of a prosecution or civil proceedings; and,
4. Disclosed with the consent of the person to whom the personal information pertains.

Bylaw Enforcement Example

