

THE CORPORATION OF THE
CITY OF WHITE ROCK
15322 BUENA VISTA AVENUE, WHITE ROCK, B.C. V4B 1Y6



POLICY TITLE: BYLAW ENFORCEMENT

POLICY NUMBER: PLANNING & DEV. SERVICES POLICY NO. 518

<i>Date of Council Adoption: January 16, 2023</i>	<i>Date of Last Amendment:</i>
<i>Council Resolution Number: 2023-011</i>	
<i>Originating Department: Planning & Development Services</i>	<i>Date last reviewed by the Governance and Legislation Committee: N/A</i>

1. **Related Policies:**

Towing of Unauthorized Vehicles Policy No. Planning & Dev. Services - 504

2. **Definitions:**

The following terms in this Policy shall have the below set out definitions:

“**Bylaw Department**” means the Department of Bylaw Enforcement for the City.

“**Complainant**” includes a natural person, a company, corporation, partnership, firm, association, society, or party.

“**Discretion**” means the freedom to decide what should be done, or not be done, in a particular situation, given the available information.

“**Frivolous Complaint**” means a complaint not having any serious purpose or value.

“**Identity**” means anything that would reveal the name, address, phone number, race, national or ethnic origin, religious or political beliefs, age, sex, gender, marital status, and/or family status of a Complainant.

“**Manager of Bylaws**” means the person appointed to this position, their designates and their authorized agents.

“**Property**” means all real Property, including, but not limited to, buildings, structures or improvements located on real Property.

“**City**” means the Corporation of the City of White Rock.

“**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.

3. Policy:

3.1. Justification for Taking Action

3.1.1. A complaint investigation should be undertaken by a person designated as a bylaw enforcement officer in response to:

- (a) one (1) or more formal complaints (Complainants must provide their name, their address, their email, and their phone number in writing) being received by the Bylaw Department from a Complainant who resides within 150 metres radius of an alleged violator;
- (b) a request from the City's Administrator;
- (c) a staff report from another City department requesting assistance in obtaining compliance with a bylaw relating to the use of Property, as set out under section 5.3 below;
- (d) an observation of a bylaw contravention, which constitutes a clear hazard to life safety or municipal services; or
- (e) where the Manager of Bylaws otherwise considers, in their sole Discretion, that a complaint investigation is appropriate.

3.2. Some Complaints Will Not Be Investigated

3.2.1 While all complaints will be received by the City, not all complaints will be investigated, including, but not limited to, the following:

- (a) a Frivolous Complaint or a Vexatious Complaint;
- (b) anonymous complaints, unless the alleged contravention constitutes a clear hazard to life, Property or municipal services, or is a contravention that the City otherwise proactively enforces;
- (c) complaints that are private in nature (e.g. disputes between neighbours), which are more appropriately managed by the Complainant through their own access to private resolution processes, such as through stratas, the Residential Tenancy Branch, private legal action, etc.; and
- (d) complaints that involve Property not located within the City or, in the City's sole Discretion, are more properly within the jurisdiction of another enforcement body.

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3.2.2 In all cases, whether or not a complaint is investigated is within the sole Discretion of the City.

3.3. Departmental Enforcement

3.3.1 Each City department will be responsible for their own background investigation of bylaw complaints.

3.3.2 The City department responsible for the original complaint will be responsible to ensure that all reasonable attempts have been made to effect voluntary compliance with the City's bylaws in accordance with this Policy.

3.3.3 If the City department responsible for the original complaint is satisfied that voluntary compliance cannot be achieved, a full written report, including background information and action to date may be submitted to the Manager of Bylaws.

3.3.4 Upon approval of the report set out in section 3.3.3 above, by the Manager of Bylaws, the City department responsible for the original complaint may request assistance from the Bylaw Department.

3.4. Enforcement Approach

3.4.1 The City promotes an enforcement philosophy that seeks voluntary compliance with City bylaws where possible. Options for obtaining voluntary compliance include education, warnings, information, and non-penalty enforcement, including providing a contravenor with a reasonable time frame to comply. Verbal or other non-formal steps to obtain compliance will be made in the early stages of an investigation, where possible, with respect to non-reoccurring bylaw contraventions.

3.4.2 Formal enforcement action may be taken, in the City's sole Discretion, including in the following situations:

- (a) a bylaw contravention which constitutes a clear hazard to life, Property or municipal services;
- (b) a bylaw contravention which occurs on City Property; or
- (c) a bylaw contravention where the contravener knows, or ought to have known, that their conduct is in contravention of the City's bylaws.

An example where the City routinely uses direct ticketing is parking violations.

3.4.3 In the case of a complaint regarding an alleged unauthorized or non-compliant secondary suite, the City will only take enforcement action where:

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- (a) two written complaints are received from immediate neighbours, and there exists an over-riding City interest, such as public safety or excessive street parking causing potential traffic flow problems;
- (b) one written complaint is received from an existing tenant of the secondary suite, and there exists a safety concern, under the British Columbia Building Code or otherwise; or
- (c) the City, in its sole Discretion, deems it necessary to proactively enforce unauthorized or non-compliant secondary suites.

3.5 Enforcement Responses

- 3.5.1 A complaint must be made by completing and submitting a Request for Service form on the website, or otherwise in writing, and must include the information set out in section 3.1.1. above.
- 3.5.2 Action by the City to obtain compliance with a bylaw may not be commenced until the validity of the complaint, the nature of the contravention, and the applicable section of the regulatory bylaw is determined.
- 3.5.3 If the validity of a complaint cannot be confirmed by the City (e.g. a one time noise contravention), a letter may be sent by the City informing the alleged contravenor of the complaint received. This letter should include the relevant details related to the alleged bylaw contravention, including the section of the City bylaw for the alleged contravenor's information.
- 3.5.4 During the course of the City's investigation into a complaint, the City should take all reasonable efforts to make notes, and all conversations and interviews with the alleged contravenor(s) may be confirmed in writing, by e-mail, letter or otherwise.
- 3.5.5 The bylaw officer may exercise Discretion in determining an appropriate time frame for compliance, and in doing so, may consider any reasonable factor, including but not limited to, the following:
 - (a) the nature of the contravention;
 - (b) the duration of the contravention;
 - (c) any deadline contained in the applicable City bylaw, which deadline will generally be considered a minimum time frame for compliance;
 - (d) the City's previous history with the contravenor or the Property;
 - (e) repeat offences by the contravenor or at the Property;

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- (f) the short and long term impacts of the contravention; and
- (g) any other extenuating circumstances, in the City's sole Discretion.

- 3.5.6 Should the City determine that a complaint is valid, and a time frame has been given to the alleged contravenor to comply with the bylaw being contravened, a letter confirming the time allowed may be sent to the contravenor by regular mail. If upon expiry of the time frame for compliance required by the City, the bylaw contravention has not been resolved, and the City determines, in its sole Discretion, that there are no reasonable extenuating circumstances for this delay, a further letter may be sent by the City to the contravenor. This letter may provide for a further allowable time frame for compliance, and will inform the contravenor of the City's intention to take further action, which may include the issuance of bylaw notices, as may be necessary to achieve compliance.
- 3.5.7 If the bylaw contravention is not resolved or no progress has been made to the satisfaction of the City by the expiry of the time frame stipulated in the letter set out under section 3.5.6, the City may offer to meet with the contravenor(s), at the City's sole Discretion, to provide the contravenor(s) with a further opportunity to achieve compliance.
- 3.5.8 Where a meeting has been held in accordance with section 3.5.7 above, the City will send a follow-up letter confirming the details of the meeting and the date by which compliance is required to prevent any further enforcement action by the City.
- 3.5.9 Should compliance not be obtained through reasonable efforts, including through informal and formal communication with the contravenor(s), or as otherwise set out herein, the investigating bylaw officer will prepare a memorandum to the Manager of Bylaws, including a recommendation as to the appropriate action to be undertaken, such as the issuance of bylaw offence notices or tickets, or a Council Report authorizing legal action.
- 3.5.10 The Manager of Bylaws, at their sole Discretion, may prepare a Council Report recommending that action be taken under the *Community Charter*, or otherwise.
- 3.5.11 If at any time during the above set out bylaw enforcement procedure, the contravention is resolved, the authorized action may be suspended or halted, and the Complainant and the contravenor may be notified that the contravention has been resolved.
- 3.5.12 Notwithstanding sections 3.5.1 through 3.5.10, where the City has determined that a bylaw contravention has occurred, the City may at any time, at its sole Discretion, expedite the enforcement of the bylaw contravention by not following one or more of the steps set out in this

Policy, but instead proceeding with immediate enforcement action, including but not limited to, the laying of an information or taking any other action as appropriate and reasonable, including the issuance of a Municipality Ticket Information (MTI) under the Ticketing for Bylaw Offences Bylaw, 2011 No. 1929, as amended or replaced (e.g. a failure to comply with a stop work order, a noise bylaw contravention is continuing, or where any other contravention requiring immediate action is continuing).

3.5.13 In accordance with a previous Council resolution, the City may proceed directly to enforcement for a repeated contravention, at the City's sole Discretion (e.g. where an illegal suite has been previously decommissioned and found by inspection to have been recommissioned).

3.5.14 To maintain consistency, and in consideration of City resources, the Manager of Bylaws will generally be responsible for all communications with the City's legal counsel, unless otherwise directed.

3.6 Prioritizing Bylaw Enforcement Complaints

3.6.1 The City's response to valid complaints are generally prioritized into three categories:

Priority 1: Health and Safety - the alleged bylaw contravention may adversely impact the health or public safety of the community. These contraventions will generally be investigated and enforced as soon as reasonably possible, subject to the availability of City staff and other resources.

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, as set out in this Policy.

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.

3.7 Bylaw Amendment

3.7.1 The Manager of Bylaws, and other City staff involved with bylaw enforcement, should take all reasonable efforts to identify and recommend amendments to bylaws which are not serving a necessary City interest.

3.8 Confidentiality

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3.8.1 The Identity of a Complainant is to be kept confidential. Only City staff directly involved in complaint taking and resolution may have knowledge of a Complainant's Identity. City staff will not reveal the Identity of a Complainant's Identity, except in accordance with the following:

- (a) where the Complainant has provided the City with their written permission for their Identity to be made public; or
- (b) where the City is otherwise required by law to disclose the complainant's Identity.

4. **Rationale:**

3.1. To set out:

- (a) the City's approach to bylaw enforcement; and
- (b) how City staff should respond to complaints over alleged bylaw contraventions.

4.2 To promote City's efficient use of the City's resources and provide a general framework on how the City responds to complaints over alleged bylaw contraventions.