



Council Policy



Approval date: October 2, 2018

Resolution No. 437/2018

Subject: Building Compliance Policy

A. PURPOSE

The objective of the Building Compliance Policy is to implement a fair and consistent approach to obtain compliance with the Building Bylaw. The policy will guide staff in the decision making and apply procedural fairness for enforcement and compliance matters within the Building & Licensing Department.

B. POLICY ADMINISTRATION

The Manager of the Building & Licensing Department is to administer this policy.

C. LEGISLATION

This policy applies to all Building & Licensing Department compliance and enforcement actions where the City of Penticton has a regulatory responsibility under federal, provincial and local law including, but not all, of the following:

*British Columbia Building Code
Local Government Act
Community Charter*

*Building Bylaw No. 2018-01
City of Penticton Bylaws*

D. GOAL

The City's goal is to achieve voluntary compliance of bylaws through education and communication. Legislation provides tools when compliance is not achieved.

The City of Penticton, like most municipalities, does not have the resources to actively review or inspect properties on a regular basis to determine compliance with the Building Bylaw. As a result, the City relies primarily on public complaints to identify potential violations.

The Building & Licensing Department will use discretion on a case-by-case basis to evaluate contraventions and take reasonable steps to investigate breaches in accordance with this policy and other operating guidelines.

City of Penticton staff are not required to report observed non-compliance violations unless it is:

- during regular work hours;
- within that employees' scope of duty; and
- where the breach violation poses a risk to public health and safety.

E. COMPLAINT

A valid complaint to investigate a violation of the Building Bylaw requires the following:

- In writing/email or reviewed via the Bylaw Intaker or those that identify immediate health & safety concerns;
- Include the name, address, phone number, and email address of the complainant;
- Address of the offending property; and
- Details of the alleged violation.

Staff are to advise the complainant that the City has received the information and provide the staff member investigating the complaint. The complainant may follow up with staff to inquire as to status or outcome of the investigation.

Anonymous, verbal, frivolous, vexatious or incomplete complaints may not be accepted. Every effort will be made to protect the confidentiality of the complainants. However, a complainant may be identified if the issue proceeds to adjudication, court or divulged due to the Freedom of Information processes.

F. COMPLIANCE AND ENFORCEMENT

The City of Penticton administers statutory responsibility in a transparent and fair manner for the health, safety and protection of people or property.

While encouraging compliance with the Building Bylaw, staff safety is paramount. Staff members are to cease investigation and remove themselves from the situation as best as possible if being verbally or physically threatened and advise the Manager of the Building & Licensing Department and/or Human Resources.

1. Priority

Staff will assess the priority of the violation using, but not limited to, the following criteria:

- Potential risk to public health and safety;
- Magnitude, nature, and duration of the contravention;
- History of non-compliance on the property or alleged offender;
- Potential impact on the community, environment, or structure;
- Legal precedents and statutory timeframes;
- Resources available to resolve or remediate the violation;
- Potential costs and liability associated with enforcement action;
- Likelihood of achieving desired results;
- Sufficient evidence to prove non-compliance;
- Reasonable use of City of Penticton's Resources;
- The legal capacity of the alleged offender.

Staff will prioritize the violations into three levels: low priority, medium priority, and high priority.

- Low Priority: Contravention(s) unlikely to cause health and safety issues;

- Medium Priority: Contravention(s) with potential to cause health and safety issues; or
- High Priority: Contravention(s) likely or known to cause health and safety issues.

2. Investigation

The Property Use and Licenses Inspector or other staff will assess and prioritize a valid complaint to determine compliance with City bylaws. The investigation may include a review of the bylaw, property file, contacting the complainant, contacting the alleged offender, and conducting a site inspection. If a violation is identified, the alleged offender will be advised to resolve the violation. If further action is required to resolve the violation, a file is to be created to track the violation, assessment, enforcement, and outcome.

An investigation undertaken by the Property Use and Licenses Inspector will be assessed on a case-by-case basis and actioned according to the Building Bylaw Compliance Matrix (included as Appendix A of this policy).

Staff are required to follow Section 16 of the *Community Charter* when entering a property or building.

Staff will attempt to achieve voluntarily compliance whenever possible prior to recommending to place a note against land title (Section 57 of *Community Charter*), remedial action or prosecution action. Voluntary compliance tools and actions may include one or more of the following:

- Education;
- Stop Work/No Occupancy notices;
- Letter, emails requesting remediation;
- Fines;
- Notice on Tax.

3. Closing the Investigation

The Manager of the Building & Licensing Department has the ability to close the investigation at any time. The Property Use and Licenses Inspector may close the investigation file using the most appropriate action based on this policy and the Building Bylaw Compliance Matrix using one or more of the following enforcement options:

- No action is required;
- Referral to another agency/government;
- Formal warning;
- Voluntary compliance tools and actions.

Where the investigation file is not closed, the unauthorized activity has not ceased, and voluntary compliance is not achievable, the Property Use and Licenses Inspector will write a report advising the

Manager of the Building & Licensing Department of the file and will provide options for consideration using one or more of the following enforcement options:

- Note against land title (Section 57);
- Remedial Action;
- And/or Prosecution.

4. Specific Building Issues

The concerns listed below will be addressed as follows:

a. *Complaint of Unauthorized Suite:*

Upon receipt of a valid complaint, the Property Use and Licenses Inspector is to make contact with property owner and request an inspection. After inspection is completed and the unauthorized suite has been confirmed, the property owner will be requested to either decommission the suite or obtain permit to authorize the suite.

b. *Expired Building Permit:*

As per the Building Bylaw, every permit expires. The Bylaw further provides that the works shall cease and construction removed if the permit expires unless a new application or an extension is made within the allotted time.

A Building Official may assess missing documentation, inspections or other requirements such as the likelihood of satisfactorily achieving completion. After assessing the information, the Building Official may retire the permit without further enforcement or forward the expired permit file to the Property Use and Licenses Inspector to attempt to obtain compliance. The Property Use and Licenses Inspector will consider the information as a valid complaint and begin an investigation.

c. *Complaint of Occupancy Without Approval:*

As per the Building Bylaw, a person must not occupy or permit the occupancy of any building or structure without approval. Upon receipt of a valid complaint, the Property Use and Licenses Inspector will make contact with property owner and request an inspection. After inspection is completed and Occupancy has been confirmed, the property owner will be fined and increased enforcement may begin.

Certified Correct:

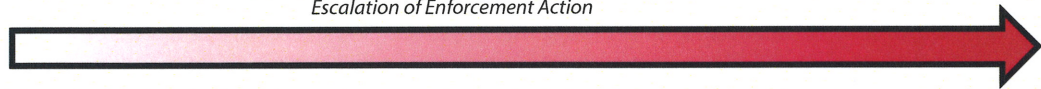


Dana Schmidt, Corporate Officer

Appendix A

Building Bylaw Compliance Matrix

Escalation of Enforcement Action



COMPLAINT Forwarded to Property Use & Licence Inspector	Review	First Contact	Second Contact	Third Contact	Fine(s)	Notice on Tax	Further Escalation
	<i>i.e. Verify information, create file</i>	<i>i.e. Phone, email, letter, site visit</i>	<i>i.e. Site visit, verify breach, collect evidence, post notices</i>	<i>i.e. Phone, email, letter, site</i>	<i>i.e. Bylaw Offence Notice, Municipal Ticket</i>	<i>Collections Services Department</i>	<i>i.e. Recommend Notice on Title, Remedial Action, Court Action</i>
Low Priority	✓	✓	✓	✓	⚠	✗	✗
Medium Priority	✓	✓	✓	✓	✓	⚠	✗
High Priority	✓	✓	✓	✓	✓	✓	⚠

✓ = Proceed

⚠ = Continue if warranted

✗ = Stop/Do not proceed without direction from Supervisor