

Approval date: September 17, 2019

Resolution No. 411/2019

Subject: Good Neighbour Bylaw Compliance Policy

A. PURPOSE

The objective of the Good Neighbour Bylaw Compliance Policy is to implement a fair, consistent and transparent approach to obtain compliance with the Good Neighbour Bylaw. The policy will guide Bylaw Enforcement Officers in the decision-making and application of procedural fairness for compliance and enforcement matters within the Bylaw Services Department.

B. POLICY ADMINISTRATION

The Bylaw Services Supervisor or Director of Development Services is to administer this policy.

C. LEGISLATION

This policy applies to property maintenance bylaw compliance and enforcement actions where the City of Penticton has a regulatory responsibility under federal, provincial and municipal law including:

Local Government Act, Community Charter, Good Neighbour Bylaw No. 2012-5030, 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 staffing or resources to actively review or inspect properties on a regular basis to determine compliance with the Good Neighbour Bylaw. As a result, the City relies primarily on public complaints to identify potential bylaw violations.

Bylaw Enforcement Officers will use discretion on a case-by-case basis to evaluate bylaw violations and take reasonable steps to investigate violations in accordance with this policy and other operating procedures.

E. COMPLAINT

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

- In writing/e mail or phone call reviewed by the Bylaw Intake Administrator or Bylaw Services Department staff identifying the bylaw issue at a property;

- Include the name, address, phone/contact number, and e mail address of the complainant;
- Address of the offending property; and
- Details of the alleged bylaw violation and duration of violation if known

Staff are to advise the complainant that the City has received the information and provide the staff member (Bylaw Enforcement Officer) investigating the complaint. That complainant may follow up with the Bylaw Intake Administrator or Bylaw Enforcement Officer to inquire as to status or outcome of the investigation.

Anonymous, frivolous, vexatious or incomplete complaints may not be accepted.

F. COMPLIANCE AND ENFORCEMENT

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

While encouraging compliance with the Good Neighbour Bylaw, staff safety is paramount. Staff members are to cease investigation and remove themselves from the situation as safely as possible if being verbally or physically threatened. They are to advise the Bylaw Services Supervisor of the incident immediately.

1. Priority

The Bylaw Intake Administrator (during regular business hours) 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 Bylaw Intake Administrator will assess, triage and prioritize a valid complaint to determine compliance with City bylaws. The file will then be generated and assigned to a Bylaw Enforcement Officer for investigation. If the call for service is received after regular business hours, the Bylaw Enforcement Officer on duty will make the same assessment, prioritization and generate the file for officer investigation.

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: Contraventions(s) likely or known to cause health and safety issues.

2. Investigation

The initial investigation may include a review of the bylaw, property file, history, contacting the complainant, contacting the alleged bylaw offender, and conducting a site inspection. If a violation is identified, the alleged offender will be advised to resolve the violation. Section 7.25 of the Good Neighbour Bylaw authorizes the bylaw enforcement officer to issue an order requiring the owner to bring their real property into compliance with the provisions of the Bylaw within in the time directed by the Bylaw Enforcement Officer.

This process may be formalized through a 'Clean up order' which identifies and articulates what is required to remedy the issue at the property and a timeline by which the work(s) must be completed.

An investigation undertaken by the Bylaw Enforcement Officer will be assessed on a case-by-case basis and actioned according to the Bylaw Enforcement Progressive Enforcement Process (Appendix A of this policy).

Staff will attempt to achieve voluntary compliance whenever possible prior to recommending remedial action or injunctive/prosecution action. Voluntary compliance tools and actions may include one or more of the following:

- Education of the Bylaw (printed relevant sections), bulletins, Oops cards, etc.;
- 'Clean up order' (Notice)- served personally or posted to the property;
- Formal letter, e mail, or phone call requesting remediation;
- Bylaw Offence Notice or Municipal Ticket Information (tickets);

3. Remedial Action Request/Report to Council

Where the investigation file is not closed, the bylaw breaching activity has not ceased, and voluntary compliance is not achievable, the Bylaw Enforcement Officer will inform the Bylaw Services Supervisor of the file and provide options for consideration using one or more of the following enforcement options:

- Remedial Action Request and Report to Council;
- And/or Court prosecution and Report to Council

The authority to direct that if a person fails to comply with the requirements of the Good Neighbour Bylaw, the municipality may fulfill the requirement at the owner's expense is derived from section 17 of the *Community Charter*. In relation to clean-up orders (unsightly/untidy premises), this power is separate from the authority to impose a remedial order under section 73 or 74 of the Community Charter, and to authorize municipal officers to carry out the terms of the order at the property owner's expense. Staff follow the policies and procedures of existing departments including the Procurement policy (ie. Ensuring contractors have adequate insurance coverage, etc.).

Section 7.29 of the Good Neighbour Bylaw provides that if the owner fails to comply with the compliance order/Remedial Request Notice within the time specified, the City may enter onto the real property and bring about compliance at the cost of the defaulting owner. A clean up order is typically issued for matters related to the collection of refuse on a property, rodent infestation, boarding a

vacant derelict home or overgrown vegetation. After a notice period (typically 14-30 days) staff will take measures to engage the services of a contractor to rectify the non-compliant situation under a value of \$2500.

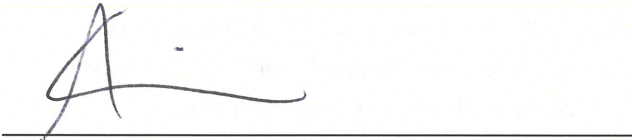
In order to ensure best use of staff time and resources, if the works required to remedy the property are under \$2,500 staff will proceed with the clean up *without* a Report to Council. If the works required to remedy the property exceed \$2,500 staff *will* prepare a report to Council requesting a recommendation to proceed with the works at the owner's expense.

4. Closing the Investigation

The Bylaw Services Supervisor has the ability to close the investigation at any time. The Bylaw Enforcement Officer may close the investigation file using the most appropriate action based on this policy and the Progressive Enforcement Process using one or more of the following options:

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

Certified Correct:

A handwritten signature in black ink, appearing to be 'A. Collison', is written above a solid horizontal line.

Angie Collison, Corporate Officer

Appendix A

Bylaw Enforcement Process

Progressive Enforcement Action



	<i>Staff</i>			<i>Management Involvement</i>	<i>Council Involvement</i>	
	Review	First / Second Contact	Third/ Fourth Contact	Long Form Information	Application to Judge	Civil Injunction
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> COMPLAINT Forwarded to Bylaw Enforcement Officer </div>	<i>i.e. Verify information, create file</i>	<i>Voluntary Compliance: Education, Persuasion, Verbal Warnings, Demand letters</i>	<ul style="list-style-type: none"> • <i>Bylaw Offence Notice</i> • <i>Municipal Ticket Information</i> 	<i>Staff/Lawyer</i> OR: <ul style="list-style-type: none"> • <i>Notice on Tax</i> • <i>Finance Dept</i> • <i>Collections</i> 	<i>Council Report Required</i> <ul style="list-style-type: none"> • <i>Notice On Title</i> • <i>Remedial Action</i> 	<i>Council Report Required</i> <ul style="list-style-type: none"> • <i>Notice On Title</i> • <i>Remedial Action</i>
Complaint						

= Proceed

= Enforcement Action

= Stop/Do not proceed without direction from Supervisor/Management