



REPORT

To: Chair and Directors

Report Number: DS-BRD-250

From: Kathy Suggitt, RPP, General Manager of Development Services

Date: July 14, 2022

Subject: **Bylaw Enforcement Policy Update**

RECOMMENDATION: [Corporate Unweighted]

That the Regional Board adopt the amended Bylaw Enforcement Policy, which aligns the policy with the requirements of the *Local Government Act* and clarifies the progression of enforcement.

BACKGROUND/RATIONALE:

Changes Required to Align with *Local Government Act*

Currently, section 4.12 of the Bylaw Enforcement Policy states:

4.12 Where rezoning or other development changes are brought to the Board for approval as the result of enforcement actions, the Board report must also include comments concerning the enforcement problem so that the Regional Board is fully aware of all the reasons for the proposed rezoning or other changes under the bylaws and the public concern initiating the enforcement action.

- a) Information about the enforcement action shall be provided in the report before discussion of the development application.*
- b) Recommended options for the development application shall include consideration of the enforcement action.*
 - i. The development application may be deferred or refused for consideration until any bylaw contravention is resolved, or;*
 - ii. The development application may be considered and proceed to review, which would then suspend enforcement action while such review is in progress, except if the applicant unreasonably delays the progress of the application, enforcement will commence.*

Section 470 (1) of the *Local Government Act* states:

Procedure after public hearing

470 (1) *After a public hearing, the council or board may, without further notice or hearing,*

(a) adopt or defeat the bylaw, or

(b) alter and then adopt the bylaw, provided that the alteration does not

(i) do any of the following:

(A) alter the use;

(B) increase the density;

(C) without the owner's consent, decrease the density of any area from that originally specified in the bylaw, or

(ii) alter the bylaw in relation to residential rental tenure in any area.

When considering a permit, or before a public hearing has been held for a bylaw amendment, section 4.12 b) i) of the Bylaw Enforcement Policy is aligned with the requirements of section 470 (1) of the *Local Government Act*, and the Regional Board could defer consideration of an application until any bylaw contravention is resolved.

However, after a public hearing for a bylaw amendment has been held, section 4.12 b) i) does not align with the requirements of section 470 (1) of the *Local Government Act* because once a public hearing has been held, a bylaw must not be deferred even if additional contraventions have been identified.

To correct this misalignment of the Bylaw Enforcement Policy with the provisions in the *Local Government Act*, the following policy points were added:

4.13 After reviewing development applications brought to the Regional Board as a result of bylaw enforcement actions, the Regional Board shall be provided a staff report where the following options are available:

- a) If the development application is for a permit*
 - i. Issue the permit, or;*
 - ii. Issue the permit with additional requirements, or;*
 - iii. Refuse the permit, or;*
 - iv. Defer the application, up to 90 days, for consideration until the bylaw contravention(s) are resolved.*
- b) If the development application is for a bylaw amendment*
 - i. Approve the application to advance to the next step, or;*
 - ii. Alter then adopt the bylaw (in accordance with the LGA)*
 - iii. Adopt the bylaw, or;*
 - iv. Refuse the bylaw, or;*
 - v. Defer the application (only if the public hearing has not yet been held), up to 90 days, for consideration until the bylaw contravention(s) are resolved.*

4.14 Bylaw Enforcement may be paused

- a) While a development application is being processed by planning staff, bylaw enforcement may be paused after a complete application has been received and reviewed by Planning Staff.*
 - i. Where planning staff identify that the applicant is unreasonably delaying the progress of the application, bylaw enforcement may be re-activated.*

The following changes were made to the policy which clarifies the progression of enforcement:

Staff made it clear that the Regional Board's approval is only required to proceed with legal action through the courts, not for routine enforcement actions.

Staff removed parts of the policy that are procedural.

Staff added a definition for Regional Board.

The draft policy is attached to this report with additions highlighted in yellow, and deletions indicated with a strikethrough.

ALTERNATIVE OPTIONS:

1. That the Regional Board provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Organizational Effectiveness
- ☒ Comprehensive Policy Review

FINANCIAL CONSIDERATION(S):

N/A

COMMUNICATIONS CONSIDERATION(S):

The policy will need to be uploaded to the PRRD Website.

OTHER CONSIDERATION(S):

N/A

Attachments:

1. Bylaw Enforcement Policy 0340-22