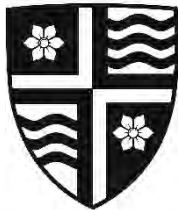


Township of
Langley



Est. 1873

REPORT TO MAYOR AND COUNCIL

PRESENTED: SEPTEMBER 20, 2021 - REGULAR MEETING
FROM: COMMUNITY DEVELOPMENT DIVISION
SUBJECT: LANGLEY BUILDING BYLAW ENFORCEMENT POLICY

REPORT: 21-102
FILE: 4320-01

RECOMMENDATION:

That Council adopt the Langley Building Bylaw Enforcement Policy presented as Attachment A.

EXECUTIVE SUMMARY:

The Langley Building Bylaw (the Bylaw), adopted by Council, regulates construction activity related to buildings and structures in the Township as defined in the Bylaw. Pursuant to the Bylaw, permits are issued by staff to authorize construction (Construction) of buildings or structures, including but not limited to, additions, alterations, new construction, signs, plumbing, and fire sprinklers.

Where a Building Permit Application has been submitted, issuance of the building permit (the Permit) is subject to compliance with the Township of Langley Zoning Bylaw, Building Bylaw, and the BC Building Code. Staff administer the process and issue the required Permit to authorize Construction when an application has been submitted, reviewed, and is in compliance with all applicable regulations including payment of fees and submission of letters of assurance from qualified professionals. The Permit process includes a methodical inspection process by Township staff and is subject to both general and specific conditions including the requirement for the Construction to commence within six (6) months and be completed within two (2) years of Permit issuance.

Enforcement of municipal bylaws is an important, necessary, and inevitable local government function. The Bylaw is not immune from violations, whether inadvertent or intentional. From time to time, construction activity proceeds without the required Permit authorizing the works or the necessary inspection by municipal staff that is intended to ensure compliance with applicable standards and regulations. Generally, and in specific cases of contravention of the Bylaw, staff work with the affected parties to obtain voluntary compliance as a first and preferred course of action. Efforts in this regard include a graduated approach with progressively strong and formal written communication, inspection notices, reminders, and ticketing as necessary to ensure public health and safety.

Despite attempts to obtain voluntary compliance, some cases of repeated offence, flagrant abuse, disregard of requirements, or repeated violations occur that warrant stronger action through legal means currently pursued only subject to Council approval as part of a confidential staff report. The Langley Building Bylaw Enforcement Policy is intended to provide a defined, clear, and transparent set of guidelines for progressive enforcement related to Building Bylaw infractions, including legal action, without the requirement of a specific Council resolution.

PURPOSE:

To request Council's adoption of the Langley Building Bylaw Enforcement Policy.

BACKGROUND/HISTORY:

The Township of Langley Building Bylaw (the Bylaw) provides for the issuance of building permits (the Permit) to facilitate construction of buildings or structures (including but not limited to, additions, alterations, new construction, signs, plumbing, and fire sprinklers) pursuant to the provisions of the Township of Langley Building Bylaw 2008 No. 4642 and in compliance with all applicable Provincial and Municipal requirements and bylaws. Where a Permit application has been submitted, issuance of the Permit is subject to compliance with the Township of Langley Zoning Bylaw, Building Bylaw, and the BC Building Code including fire regulations, all in the interest of public health and safety.

When it is determined that an application is in compliance with Township bylaws, the BC Building Code, and other applicable regulations, the Permit may be issued subject to payment of all applicable fees as set out in the Bylaw. Permits are currently issued under the following conditions as set out in the Bylaw:

- The Construction must commence within six (6) months from the date of issuance;
- Construction must not be discontinued or suspended for a period of six (6) months; and
- Construction must be completed within two (2) years from the date of Permit issuance.

Required inspections noted on the Permit are requested by the Owner or Agent and conducted by the Building Inspector during various stages of construction to ensure compliance with all Permit conditions, the BC Building Code, and Township bylaws. The final step in the process is for applicants to obtain an Accepted Final Inspection which provides for use or “occupancy” of the building or structure.

Bylaw enforcement may be necessary when: construction is delayed beyond the permitted period; the necessary inspections have not been completed; the building or structure is occupied without an Accepted Final Inspection; or when construction begins without a Permit having been issued to authorize the works as required by the Bylaw. The enforcement process typically commences with attempts to obtain voluntary compliance, with the exception of the more flagrant or egregious violations that may pose an immediate risk to public safety. Current procedures for enforcement are as follows:

1. Where a Permit has been issued and construction has not proceeded for six (6) months or more, the works not completed within two (2) years; or the construction has commenced without a valid Permit, or the building or structure has been occupied without an Accepted Final Inspection, a follow up inspection by Township staff will be scheduled and a notice (the Notice) provided to the owner/applicant to demand compliance typically within 30 days from the date of issuance of the Notice.
2. Where, despite the Notice, the owner or applicant has not complied with Bylaw requirements, a further follow up inspection by Township staff will be scheduled and a second Notice provided to comply with the Bylaw requirements within 30 days from the date of the second Notice.
3. Where despite two (2) Notices, the owner or applicant has not complied with the Bylaw requirements, a formal letter (the Letter) will be sent to the owner or applicant demanding that they bring the property into compliance within 14 days of the date of the issuance of the Letter. Where, despite the Letter, a property remains non-compliant, the Township will proceed with issuing Bylaw Offence Notice Tickets (Ticket) until compliance is obtained or legal remedies obtained.
4. Where the Township becomes aware of construction proceeding without a Permit (Unlawful Construction), staff will conduct site inspections to investigate the Unlawful Construction. If the Unlawful Construction is confirmed, a “Stop Work Order” will be placed on the property and a letter sent to the owner or occupier to advise that a Permit application for the construction be made to the Township within 30 days of the date of the letter. If an owner, agent, or applicant

continues with the construction, or if a Permit application is not made to the Township and no Permit issued by the Township, follow-up letters will be sent that may include Ticket(s) issued pursuant to the Bylaw until a Permit application is received and compliance is obtained; with legal action considered, only based on Council direction.

The enforcement steps above include a combination of follow-up inspections where a Building Inspector or Bylaw Enforcement Officer physically attends the property and leaves an inspection notice on site, phone calls by staff, emails, and written communications with the owner, occupier, agent, or applicant requesting voluntary compliance.

DISCUSSION/ANALYSIS:

Township staff deal with numerous Permits that require additional follow-up by scheduling inspections, letter writing, and phone calls in an attempt to gain voluntary compliance. These include situations where construction authorized by a Permit has not been completed with an Accepted Final Inspection and where construction has occurred without the required Permit. Many of these non-compliant situations are resolved after reminder follow-up inspections, letters, and Tickets have been issued. Continued enforcement for Permits where an Accepted Final Inspection has not been obtained, after the above process is followed and compliance has still not been obtained, is to prepare a report to Council to request a Council resolution to commence legal action, pursuant to provincial legislation.

The proposed Langley Building Bylaw Enforcement Policy is intended to provide a set of formal guidelines for sending notifications regarding obtaining Accepted Final Inspections and an enforcement plan where voluntary compliance cannot be obtained. Delegating this authority to the General Manager of Engineering and Community Development eliminates the administrative requirements for a report to Council for every outstanding situation involving non-compliant construction and will provide for a more efficient and cost-effective enforcement approach.

Except for highly unusual situations generally involving serious and urgent health and safety issues, legal action is not contemplated until staff have exhausted all reasonable efforts to obtain voluntary compliance. Prior to commencing formal legal action, staff will generally instruct Township Legal Counsel to send Letter requesting compliance by a specific date, warning that failure to comply may result in legal action which may also include additional Tickets.

Based on experience, many cases are typically resolved after written communication from Township Legal Counsel. In cases where compliance is not obtained and additional steps are required, staff will discuss further enforcement options to obtain compliance with Township Legal Counsel based on the specific merits of each case which may include additional Letters with Tickets, attempting to enter into a Consent Order, or seeking an injunction through the court system.

The proposed Policy will authorize the General Manager of Engineering and Community Development, or his or her delegate, to commence legal proceedings following past practices. It will further provide for a more consistent set of guidelines, available publicly, relating to the Township's Building Bylaw enforcement plan. Subject to Council's approval, endorsement of the Policy constitutes a resolution pursuant to Section 274 of the Community Charter, as amended.

Respectfully submitted,

Roberto Cesaretti
MANAGER, PERMIT, LICENCE & INSPECTION SERVICES
for
COMMUNITY DEVELOPMENT DIVISION



COUNCIL POLICY

**Subject: Langley Building Bylaw
Enforcement**

**Policy No:
Approved by Council:
Revised by Council:**

1. Purpose

- 1.1 To set out conditions for enforcement where:
- (a) an existing Permit has been issued for Construction in accordance with the Township of Langley Zoning Bylaw and Township of Langley Building Bylaw but has not received the required accepted final inspection confirming that the Construction is in compliance with the Township's lawful requirements (the "Accepted Final Inspection");
 - (b) an existing Building Permit has been issued in accordance with the Township Building Bylaw but the Owner or Agent has not complied with the conditions noted on the Permit, including occupancy without having received an Accepted Final Inspection;
 - (c) an Owner or Agent is not in compliance with all Township Bylaws, including the Langley Building Bylaw 2008 No. 4642, relating to a Permit issued for Construction; and
 - (d) an Owner or Agent has started Construction without first obtaining a Permit for the Construction.

2. Background

- 2.1 Permits are issued for all types of Construction in accordance with the Township of Langley Building Bylaw.
- 2.2 Permits are valid for the earlier of (a) two (2) years from the date of issuance or (b) until the Building Permit has received an Accepted Final Inspection.

3. Related Bylaw

- 3.1 Langley Building Bylaw 2008 No. 4642, as amended or replaced (the "Building Bylaw").

4. Definitions

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

"Agent" includes a person, firm or corporation representing the Owner by designation or contract, and includes, but is not limited to, a hired tradesperson

and contractor who may be granted Permits for work within the limitations of their licence;

“**Building**” means any structure used or intended for supporting or sheltering any use or occupancy;

“**Construction**” includes erect, repair, alter, add, install, demolish, remove, excavate, and shore;

“**Owner**” means an owner as defined in the Local Government Act;

“**Permit**” means the written authority granted by the Building Inspector pursuant Building Bylaw 2008 No. 4642 for the purpose of Construction; and

“**Structure**” means a Construction or portion thereof of any kind, whether fixed to, supported by, sunk into or located in, land, water, or airspace or attached to a Building, and includes foundation or supporting framework for exterior signs, equipment and machinery, interior storage racking greater than 2.6m in height and swimming pools as defined in this Bylaw but specifically excludes paving, fences and landscaping.

5. Policy

- 5.1 Enforcement in relation to issued Permits proceeds generally on the following basis, subject to the discretion of the General Manager, Engineering & Community Development, or their delegate:
- 5.1.1 Where a Permit has been issued to an Owner or Agent, the Construction authorized by the Permit needs to be completed in accordance with the Permit and the Township’s bylaws.
 - 5.1.2 Where a Permit has been issued to an Owner or Agent, and Construction has stalled (not proceeded for six (6) months or more), or the Owner or Agent has completed the Construction and/or occupied the space without an Accepted Final Inspection being issued within two (2) years; a follow up inspection by Township staff will be scheduled, and a notice then provided to the Owner or Agent to obtain an Accepted Final Inspection for the Construction within 30 days from the date of the notice (the “Notice”).
 - 5.1.3 Where, despite the Notice, the Owner or Agent has still not received an Accepted Final Inspection, a further follow up inspection by Township staff will be scheduled, and a second notice provided to the Owner or Agent to obtain an Accepted Final Inspection for the Construction within 30 days from the date of the Notice (the “Second Notice”).
 - 5.1.4 Where, despite the Second Notice, the Owner or Agent has still not received an Accepted Final Inspection, a formal letter will be sent to the Owner or Agent demanding that they schedule and obtain an Accepted Final Inspection for the Permit issued for Construction within 14 days of the date of the letter (the “Formal Letter”). Where, despite the Formal Letter, the Owner or Agent has still not received an Accepted Final Inspection, the Township will proceed with issuing Bylaw Offence Notice ticket(s) under the Langley Building Bylaw 2008 No.4642 until compliance is obtained.

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- 5.1.5 Where the Township becomes aware that an Owner or Agent has started Construction without a Permit being issued for the Construction (“Unlawful Construction”), staff will conduct site inspections to investigate the Unlawful Construction. If the Unlawful Construction is confirmed, a “Stop Work Order” will be placed on the property and a letter sent to the Owner or Agent to advise that a Permit application for the Construction must be made to the Township within 30 days of the date of the letter. If the Owner or Agent continues with the Construction, or if a Permit application is not made to the Township and no Permit issued to the Owner or Agent by the Township, follow-up letters will be sent to the Owner or Agent. Included in the letter may be Bylaw Offence Notice ticket(s) issued under the Langley Building Bylaw until a Permit application is received and compliance is obtained, and subject to section 5.1.7 below.
- 5.1.6 Where attempts by Township staff to gain voluntary compliance, as set out in this Policy, fail, Council authorizes the General Manager, Engineering & Community Development, or their delegate, to commence and proceed with legal proceedings, in his or her discretion. The approval of this Policy by Council will constitute a resolution authorizing such legal proceedings as required by section 274 of the Community Charter, SBC 2003, c. 26, as may be amended or replaced.