

District of Barriere

REPORT TO COUNCIL

Request for Decision

Date: September 9, 2024	File: 530.20/Rpts
To: Council	From: Chief Administrative Officer
Re: Abandoned Property and Shelter Policy No. 51BE	
Recommendation: THAT Council instructs Staff to present Policy No. 51BE for adoption at the September 23, 2024, Regular Meeting of Council.	

Purpose

For Council to review the proposed Abandoned Property and Shelter Policy which is to provide guidance to staff on how to proactively approach Abandoned Property, Inhabited Shelters, Uninhabited Shelters, and persons who Trespass on public or District lands with the intent to set up a Shelter or camp.

Background

Municipalities across British Columbia have struggled over the past decade or more to manage concerns arising from the transient population. Often these concerns are related to unsightly premises, verbal and physical abuse, petty crime, fire safety, etc. Many municipalities have found some mitigating techniques and established policies and guidelines for Staff that reduced the risk on the organization while equally providing avenues to seek resolutions directly with individuals or through court injunctions.

The District of Barriere has recently had a few incidents that involved the transient population involving fire department calls and temporary shelters being established. Having access to many of the lessons learned from other municipalities provides the District now with an opportunity to put guidelines in place that enable proactive resolutions to issues as they arise.

Through the Community Improvement and Unsightly Property Bylaw No. 23, the Parks Regulation Bylaw No. 42, the Fire Regulations Bylaw No. 55 and the Traffic Bylaw No. 22, it is clear that Council would like to deter and/or regulate various activities potentially associated with the transient population. Also, what other municipalities have found is that once the activity is rooted, it becomes much more difficult to regulate and remediate.

The attached Policy is a combination of proactive and reactive strategies that fit within the current regulations and have been gleaned from court decisions, current best practices, and the current legislative framework. In short, this approach is meant to prevent the establishment of unwanted encampments before they materialize. Further, it sets out the guidelines and procedures for determining when and if something can be removed once in place; as well as how.

Policy Highlights

Definitions – The definition section outlines common terminology used throughout the Policy and includes for example definitions for Abandoned Property, Vehicles, and Shelter, including what defines Inhabited vs. Uninhabited:

- c) **“Shelter”** means a temporary structure that is made up of any material(s) used to protect a person from inclement weather or something harmful. These materials may include but are not limited to tents, tarps, building materials, organic material, cardboard and un-insured vehicles. Further, this section also applies to a person who has entered a building with the intent to shelter.
- a. **“Inhabited”** means a Shelter that is being used to protect a person from inclement weather or something harmful, when other services are not available, such as at night. A Shelter that is used during the day, but not at night, is not considered inhabited.
- b. **“Uninhabited”** means a Shelter that has not been used to protect a person from inclement weather or something harmful when other services are not available, such as at night, for a period of 72hrs from the time in which the Shelter is identified by Staff or last inhabited. Further, a vehicle that has been identified as arriving within the last 24 hours by staff will not be considered a Shelter.

General – This section provides general guidelines on how the Policy is intended to be applied. For example, safety of Staff is always first as well as the safety of others.

Abandoned Property – The intent is that if Abandoned Property is recognized, Staff will remove and dispose of the materials at the landfill; however, if the items are Identifiable Personal Effects then it may be collected and piled/bagged on site and if not claimed within 24hrs, then it would be disposed of. In some instances, even Identified belongings may need to be disposed of at once.

Inhabited Shelter – Inhabited Shelters are not Abandoned Property; however, if it poses a safety risk, it may need to be removed at once. Staff will also make reasonable efforts to notify support agencies of the location. In some cases, Council may need to authorize a court injunction after receiving advice from the District solicitor to remove an Inhabited Shelter.

Uninhabited Shelter – Those types of Shelters will be considered Abandoned Property and will be removed as such. This section further outlines how Staff would handle un-insured vehicles as they could also be considered Shelters (for example recreational vehicles (RV's)).

Trespass with the Intent to Set Up Shelter or Encampment – If such a trespass is identified by Staff, the unestablished Shelter will be removed immediately.

Liaison Activities – Although the Policy is primarily intended for the removal of shelters and abandoned property, Liaison Activities are also a key component of working with the transient population and service providers for that segment of the population. Liaison activities would include:

- provide support within the community when complaints or concerns are generated about homeless activity, to seek resolutions
- provide information / referrals to services
- liaise with service providers to be informed of services offered and refer service providers to persons indicating need
- identify *Shelter* locations to service providers to enable outreach to persons associated
- Notify Council of visible gaps to support or services in the community

Summary

The draft Abandoned Property and Shelter Policy No. 51BE is presented here for discussion with the request that Council forward the policy to the Regular Meeting of Council on September 23, 2024, for adoption.

Benefits or Impact

General

Codifying of best practices in response to increased transient activity.

Finances

Costs for cleanup as required.

Strategic Impact

Good enforcement practices can promote community harmony thereby improving community livability.

Risk Assessment

Compliance: Various District Bylaws, Bylaw Enforcement Policy, potential court injunction processes

Risk Impact: Medium – Public perception of this Policy will likely vary with some groups of the community left feeling the Policy is too strong and others feeling it is not strong enough. Further, it is possible that this Policy could be picked up by a larger news agency and we may receive comments and feedback from a much larger audience than just our community and the surrounding area.

Internal Control Process: Staff would follow standard procedures for implementing policies. Possible review at a later time to adjust guidelines if necessary.

Next Steps / Communication

- The presentation of this policy provides opportunity for feedback by Council and the public to potentially modify the Abandoned Property and Shelter Policy before adoption
 - Staff would present the Policy for adoption at the next meeting of Council
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Attachments

- Draft Abandoned Property and Shelters Policy No. 51BE

Recommendation

THAT Council instructs Staff to present Policy No. 51BE for adoption at the September 23, 2024, Regular Meeting of Council.

Alternative Options

1. Council could choose not to establish a policy at this time
2. Council could choose to modify the proposed policy.

Prepared by:

D. Drexler, Chief Administrative Officer



DISTRICT OF BARRIERE COUNCIL POLICY MANUAL

Approval Date: N/A
Amended Date: N/A

NO: BE51
SECTION: Bylaw Enforcement
SUBJECT: Abandoned Property and Shelters

Purpose

The purpose of this Policy is to provide guidance to *Staff* on how to proactively approach *Abandoned Property*, *Inhabited Shelters*, *Uninhabited Shelters*, and persons who trespass on public or District of Barriere (the “District”) lands with the intent to set up a *Shelter* or camp.

Definitions

In this policy,

- a) **“Abandoned Property”** means property that has been left unattended or in an unsecured manner on public or District lands. For the purposes of this Policy, property is defined as building material(s), identifiable personal effects, bicycles, and any other material not originating on or from the property in which the trespass is occurring as deemed by *Staff*.
- b) **“Identifiable Personal Effects”** means property of a personal nature, at, in, or near an inhabited or uninhabited shelter that may include items such as identification, prescription medication, eye-glasses, hearing aids, disability devices, personal documents, clothing, bedding, tent, tarpaulin, cookware and utensils, food and food storage, cooking appliances, heating appliances, and modes of transportation for possessions or person such as a cart, bag, backpack, or bike.
- c) **“Shelter”** means a temporary structure that is made up of any material(s) used to protect a person from inclement weather or something harmful. These materials may include but are not limited to tents, tarps, building materials, organic material, cardboard and un-insured vehicles. Further, this section also applies to a person who has entered a building with the intent to shelter.
 - a. **“Inhabited”** means a *Shelter* that is being used to protect a person from inclement weather or something harmful, when other services are not available, such as at night. A Shelter that is used during the day, but not at night, is not considered inhabited.
 - b. **“Uninhabited”** means a *Shelter* that has not been used to protect a person from inclement weather or something harmful when other services are not available, such as at night, for a period of 72hrs from the time in which the Shelter is identified by *Staff* or last inhabited. Further, a vehicle that has been identified as arriving within the last 24 hours by staff will not be considered a *Shelter*.

- d) **“Staff”** means the Chief Administrative Officer or designate.
- e) **“Trespass with the Intent to set up a Shelter or Camp”** – means a person who is in the process of establishing a single *Shelter*, or a commune of *Shelters* (encampment), on public or District lands, that are not yet established, or inhabited. For the purpose of this Policy, trespass on public or District lands pertains to all types of lands including developed, un-developed, parks and community use. Further, this section also applies to a person who has entered a structure with the intent to shelter.
- f) **“Vehicle”** as defined in the *Motor Vehicle Act of BC* is a device in, on, or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be moved by human power, a device used exclusively on stationary rails or tracks, mobile equipment, a motor assisted cycle, or a regulated motorized personal mobility device. For the purpose of this Policy, a vehicle includes but is not limited to a truck, car, van, sport utility vehicle, recreational vehicle, travel trailer, camper trailer, and tent trailer.
 - a. **“Insured”** as defined in the *Motor Vehicle Act of BC*, registering the vehicle or trailer with the Insurance Corporation of British Columbia (ICBC), obtaining a licence for its operation, and obtaining an owner's certificate under the Insurance (Vehicle) Act.
 - b. **“Un-insured”** as defined in the *Motor Vehicle Act of BC*, not registering the vehicle or trailer with ICBC, not obtaining a licence for its operation, and not obtaining an owner's certificate under the Insurance (Vehicle) Act.

General:

This Policy is not meant to supersede Federal or Provincial legislation or Charter Rights, but rather is meant to complement the current law while taking a proactive approach. This section refers to the general conditions in which the provisions within this Policy will be carried out:

- a) At all times, safety will be paramount. *Staff* will make every reasonable effort to ensure their safety, as well as the safety of others while carrying out this Policy.
- b) This Policy builds on the District's regulatory bylaws including, but not limited to, the Community Improvement and Unsightly Property Bylaw No. 23, the Parks Regulation Bylaw No. 42, the Fire Regulations Bylaw No. 55 and the Traffic and Road Safety Bylaw No. 226, as amended or replaced from time to time.
- c) It is generally accepted that no two situations will be alike, and that *Staff* will need to consider each occurrence individually, using their discretion in the application of this Policy, while still trying to maintain the overall intent.
- d) Council, through resolution, may choose to pursue a court order in addition to, or in lieu of, this Policy, which will be entirely at the discretion of Council.
- e) Where possible, *Staff* will proactively take reasonable measures to deter or block trespass and the construction of *Shelters* on public and District lands.

- f) *Insured Vehicles* will not be regulated as part of this Policy and will be removed as per the thresholds contained within the traffic regulation bylaw and any other relevant Council directive.
- g) This Policy pertains to public and District owned lands only.
- h) Where the District has resolved, or is in the process of resolving, a matter addressed within this Policy, *Staff* will take any reasonable measures available to deter future contraventions.
- i) Where there are contradictions between this Policy and other District directives, the following priorities will prevail:
 - a. District Bylaws
 - b. District Policies
 - c. Resolutions of Council
 - d. Administrative Policies
 - e. Best Practice

Abandoned Property

- a) When *Abandoned Property* is identified, where possible, *Staff* will remove and dispose of the materials at the landfill as soon as reasonably possible.
- b) If *Staff* identify some of the *Abandoned Property* as *Identifiable Personal Effects*, where possible and if safe to do so, these items will be either piled or bagged in order to be claimed. If the materials are not claimed within 24hrs, they will be disposed of at the landfill.
- c) Where practicable, *Staff* may provide notice to support agencies and/or persons known to frequent the property before disposing of *Abandoned Property*.
- d) In some cases, *Abandoned Property*, including *Identifiable Personal Effects*, may need to be disposed of immediately. In these circumstances *Staff* will use their discretion while still trying to maintain the intent of this Policy.

Inhabited Shelter

- a) When an *Inhabited Shelter* is identified, where possible, *Staff* will notify the appropriate support agencies of the location.
- b) *Inhabited Shelters* as per the definition contained within this Policy will not be considered *Abandoned Property*
- c) Notwithstanding Provincial and Federal legislation, in some cases, an *Inhabited Shelter* may need to be removed immediately as it poses a life safety risk to either the inhabitant or to the general public. In these circumstances, *Staff* will use their discretion while still trying to maintain the intent of this Policy. Further, where possible and if safe to do so, *Identifiable Personal Effects* will be either piled or bagged in order to be claimed. If the materials are not claimed within 24hrs, they will be disposed of at the landfill.

- d) Upon advice from the District's solicitor, Council may, through resolution, pursue the removal of an *Inhabited Shelter*, or a commune of *Shelters*, through a court order.

Uninhabited Shelter

- a) When an *Uninhabited Shelter* is identified and has met the thresholds of this Policy, it will be considered *Abandoned Property* and will be handled according to this Policy.
- b) If an *Uninhabited Shelter* is identified as an *Un-insured Vehicle*; where possible, the *Vehicle* will be boarded up to deter re-entry and removed from the site as soon as reasonably possible. *Staff* is authorized to work with local towing companies to remove the *Vehicle* and store it according to the towing companies' policies in order to be claimed. If no towing companies are available, *Staff* may remove and securely store the *Vehicle* for up to thirty (30) days in order to be claimed. Further, where possible, *Staff* will try to work with the RCMP to contact the registered owner of the *Vehicle*.
- a. **Unclaimed Uninsured Vehicles** - a *Vehicle* that is not claimed within thirty (30) days of removal by *Staff* will be disposed of appropriately, as per any relevant legislation. If required, *Staff* is authorized to purchase the *Vehicle* for a nominal fee and expense the potential towing costs instead of charging the previous owner to allow for disposal.
 - b. **Claimed Uninsured Vehicles** - in order to claim an *Un-insured Vehicle* that has been removed from public land, the claimant will need to follow the towing companies' policies to claim the *Un-insured Vehicle*; or if claiming a District-stored *Un-insured Vehicle*, within thirty (30) days of removal the claimant will be required to:
 - i. Provide verification of *Vehicle* ownership
 - ii. Verify the procedure in which the *Un-insured Vehicle* will be transported from the storage yard and that the method will meet all Federal, Provincial, and Local legislation
 - iii. Verify the intended destination of the *Vehicle* does not violate any District bylaws.
 - iv. Pay for any associated towing or removal fees.

A *Vehicle* that has already been removed from public or District lands and claimed once before from the District, will not be eligible to be claimed a second time when stored by the District.

Trespass with the Intent to Set up a Shelter or Encampment

- a) When a *Trespass with the Intent to set up a Shelter or Encampment* is identified by *Staff*, the unestablished *Shelter(s)* will be removed immediately. Further, where possible and if safe to do so, *Identifiable Personal Effects* will be either piled or bagged in order to be claimed. If the materials are not claimed within 24hrs, they will be disposed of at the landfill.

Liaison Activities

In conjunction with the objectives and deliverables outlined in the *Abandoned Property and Shelters Policy*, where possible *Staff* will undertake the following liaison activities:

- provide support within the community when complaints or concerns are generated about homeless activity, to seek resolutions
- meet with homeless persons to identify needs and provide information / referrals to services
- liaise with service providers to be informed of services offered and refer service providers to persons indicating need
- identify *Shelter* locations to service providers to enable outreach to persons associated
- Notify Council of visible gaps to support or services in the community

Related Bylaws and Policies *(as amended or replaced from time to time)*

- Community Improvement and Unsightly Property Bylaw No. 23
- Parks Regulation Bylaw No. 42
- Fire Regulations Bylaw No. 55
- Traffic and Road Safety Bylaw No. 226

Resolutions and Amendments

MMM DD, YYYY – Council Policy No. BE51 Established