



COUNCIL REPORT

Report Date: June 8, 2023
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Meeting Date: July 25, 2023
[Submit comments to Council](#)

TO: Vancouver City Council
FROM: General Manager of Planning, Urban Design and Sustainability
SUBJECT: Amending and Enforcing the Annual Greenhouse Gas and Energy Limits By-law

Recommendations

- A. THAT Council approve, in principle, proposed amendments to the Annual Greenhouse Gas and Energy Limits By-law generally in accordance with Appendix A.
- B. THAT Council instruct the Director of Legal Services to bring forward for enactment by-law amendments generally in accordance with Appendix A.
- C. THAT Council approve, in principle, proposed amendments to the By-law Notice Enforcement By-law, generally in accordance with Appendix B.
- D. THAT Council instruct the Director of Legal Services to bring forward for enactment by-law amendments generally in accordance with Appendix B.
- E. THAT Council instruct staff to bring forward for Council approval a revised Screening Officer Policy at the same time as the proposed by-law amendments referenced in Recommendations B and D are brought forward for enactment.

Purpose and Executive Summary

This report proposes amendments to the Annual Greenhouse Gas and Energy Limits By-law (the "GHG By-law") that clarify the GHG By-law, allow for better enforcement, and address miscellaneous issues.

The report also recommends that the GHG By-law be added to the growing list of by-laws that can be enforced by by-law notice, under the By-law Notice Enforcement By-law ("BN By-law"). Importantly, the proposed amendments will authorize the use of compliance agreements to assist with by-law enforcement for the first time.

Finally, the report recommends Council approval of a revised Screening Officer Policy to assist with by-law enforcement. The revised Screening Officer Policy will be brought forward for Council consideration if the by-laws are approved for enactment.

Council Authority/Previous Decisions

Council enacted the GHG By-law on July 20, 2022, and it came into effect on January 1, 2023. The GHG By-law requires the reporting of energy consumption, and requires affected building owners to obtain a City permit in some circumstances.

Council enacted the BN By-law on February 1, 2011. The BN By-law authorizes an adjudication scheme that can simplify by-law enforcement because it does not necessarily involve the courts. The BN By-law originally only authorized enforcement of parking by-laws by by-law notice, but its scope has grown since 2011.

City Manager's Comments

The City Manager concurs with the foregoing recommendations.

Context and Background

The GHG By-law sets out short and long term requirements for greenhouse gas and energy use reduction. The GHG By-law has been in force since January 1, 2023, but the requirements imposed by the By-law are staggered to begin at various times. Beginning in 2024, owners of certain buildings will need to begin energy and carbon reporting in accordance with the GHG By-law. Starting in 2026 owners of group D and E major occupancies (office and retail) buildings with a gross floor area equal to or exceeding 9,290 m² will be required to apply for and be granted a carbon emissions operating permit in accordance with the GHG By-law. This annual permit fee will be proportional to the amount of GHG emissions the building is exceeding the required limit by.

City staff are recommending that the GHG By-law be enforceable by by-law notice to simplify enforcement. In order to facilitate that goal, staff are recommending amendments to the GHG By-law to clarify what information is required to be reported, and when a permit must be applied for and obtained. Other amendments to clarify and correct the GHG By-law are also being proposed.

The BN By-law must be amended to allow the GHG By-law to be enforced by by-law notice. Staff are proposing to make certain offences punishable by by-law notice, including failing to report certain information or failing to apply for or obtain a permit. The proposed BN By-law amendments will also authorize certain City employees to enforce the GHG By-law.

Screening Officer Policy

Screening officers can be authorized by by-law and resolution to undertake certain tasks. For example, screening officers are authorized to review a by-law notice to determine whether or not it should proceed to adjudication. The City has appointed screening officers since 2011. If the proposed by-law amendments are approved, staff will revise the Screening Officer Policy for Council to authorize certain existing staff positions as screening officers to review by-law notices issued to enforce the GHG By-law.

Compliance Agreements

Compliance agreements are an enforcement tool authorized by the Local Government By-law Notice Enforcement Act, and the By-law Notice Enforcement Regulation. Compliance agreements allow screening officers to enter into an agreement with a person who breached a by-law, as an alternative to paying a penalty. The related penalty will be suspended if the person who breached the by-law agrees to certain terms and conditions such as the steps to be taken and the timetable to be met that will result in compliance with the by-law. If the terms and conditions of the compliance agreement are met – then no penalty is imposed. If the terms and conditions are not met, then the compliance agreement can be rescinded, and the person will be subject to the penalty.

The City has not embraced compliance agreements until now – largely because many by-laws are not suitable for compliance agreements. For example, there is little point in agreeing to allow someone to not pay a parking meter penalty merely if they agree not to do it again. The harm has already occurred. For the GHG By-law, however, gaining future compliance could be beneficial and allowing compliance agreements that result in better by-law compliance is considered worthwhile.

Discussion

The BN By-law is a tool that authorizes a less formal method of by-law enforcement because it does not necessarily involve the courts. By-law notice disputes are heard by adjudicators, and not judges. The City has employed by-law notices to enforce its bylaws since 2011. The scope of the BN By-law has grown over the years and the tool has proven to be useful. If the by-law notice tool does not result in by-law compliance, other tools such as prosecutions or injunctions may still be used.

As noted above, staff are also recommending the use of compliance agreements to better achieve by-law compliance.

Financial Implications

The recommendations contained in this report do not have any significant financial impacts and can be managed within existing budget allocations.

Legal Implications

The proposed amendments are authorized by the Vancouver Charter and the Local Government By-law Notice Enforcement Act.

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**APPENDIX A
AMENDING BY-LAW**

BY-LAW NO.

**A By-law to amend
Annual Greenhouse Gas and Energy Limits By-law no. 13472
regarding miscellaneous amendments**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This by-law amends the indicated provisions of the Annual Greenhouse Gas and Energy Limits By-law.
2. Council inserts a new section 2.5A that reads as follows:

“2.5A No person that submits a report required by sections 2.1, 2.2, 2.3 or 2.4 may submit a report that includes inaccurate or false information regarding the:

 - (a) building’s primary occupancy;
 - (b) building’s other occupancies;
 - (c) gross floor area for each building occupancy; or
 - (d) monthly site energy use and greenhouse gas emissions by energy fuel type for the full calendar year.”.
3. Council strikes the word “publically” from section 2.17 and replaces it with “publicly”.
4. In section 3.1, Council inserts “and MUBs in which the sum of the major occupancies listed below has a GFA equal to or exceeding 9,290 m²” after “of the building GFA”.
5. In section 3.2, Council inserts “and MUBs in which the sum of the major occupancies listed below has a GFA equal to or exceeding 9,290 m²” after “of the building GFA”.
6. Council strikes section 4.1 and replaces it with:

“4.1 An owner of a building, or part of a building, that exceeds the requirements imposed by sections 3.1(a) or (b) must:

 - (a) apply for an annual carbon emissions operating permit, and
 - (b) pay an annual carbon emissions permit fee in accordance with sections 4.10 and 4.11 for the emissions from the previous calendar year.”.
7. A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law, and is not to affect the balance of this by-law.
8. This by-law is to come into force and take effect on the date of its enactment.

APPENDIX B
AMENDING BY-LAW
BY-LAW NO. ____

**A By-law to amend the By-law Notice Enforcement By-law
 regarding enforcement of the Annual Greenhouse Gas and Energy Limits By-law**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This by-law amends the indicated provisions of By-law Notice Enforcement By-law.
2. Council adds to section 7.3 after “all Supervisors and Managers of Revenue Services,” the words “the Director, Sustainability, all Managers, Sustainability, all Project Managers II, Sustainability, and all Planners II, Sustainability,”.
3. Council adds a new section 7.5:

“Compliance Agreements

7.5 Every Screening Officer II who is also named as a by-law enforcement officer under section 8(d) of this By-law may enter into a compliance agreement, including any terms and conditions considered necessary, with a person who disputes a by-law notice, provided the compliance agreement:

- (i) relates to any violation of the Annual Greenhouse Gas and Energy Limits By-law set out in Appendix A;
- (ii) if not rescinded, results in no penalty being paid; and
- (iii) has a term of one year, or less.”.

4. Council strikes the word “and” at the end of section 8(c), renumbers section 8(d) as 8(e) and inserts a new section 8(d) as follows:

“(d) The Director, Sustainability, all Managers, Sustainability, all Project Managers II, Sustainability and all Planners II, Sustainability as by-law enforcement officers for the purposes of enforcing all the Annual Greenhouse Gas and Energy Limits By-law contraventions set out in Schedule A of this By-law; and”.

5. At the end of Schedule A, but before the words “In this By-law all penalties, discounts and surcharges are dollar (\$) amounts.” Council adds the following:

By-law and By-law Section	Description	A1 Penalty	A2 Discount	A3 Surcharge
Annual Greenhouse Gas and Energy Limits By-law				

Section 2.1(a)	Fail to report 2024 (A1 larger building)	500	250	250
Section 2.1(b)	Fail to report after 2024 (A1 larger building)	500	250	250
Section 2.2(a)	Fail to report 2025 (A1 smaller building)	500	250	250
Section 2.2(b)	Fail to report after 2025 (A1 smaller building)	500	250	250
Section 2.3(a)	Fail to report 2025 (B3 larger building)	500	250	250
Section 2.3(b)	Fail to report after 2025 (B3 larger building)	500	250	250
Section 2.4(a)	Fail to report 2026 (B3 smaller building)	500	250	250
Section 2.4(b)	Fail to report after 2026 (B3 smaller building)	500	250	250
Section 2.5A(a)	Incorrect primary occupancy	500	250	250
Section 2.5A(b)	Incorrect other occupancies	500	250	250
Section 2.5A(c)	Incorrect gross floor area	500	250	250
Section 2.5A(d)	Incorrect site energy use and gas emissions	500	250	250
Section 4.1(a)	Fail to apply for permit	500	250	250
Section 4.1(b)	Fail to pay fee for permit	500	250	250

6. A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law, and is not to affect the balance of this by-law.

7. This By-law comes into force and takes effect upon enactment.

ENACTED by Council this _____ day of _____, 2023

Mayor

Acting City Clerk