



Columbia Shuswap Regional District

**BYLAW ENFORCEMENT POLICY**

**Preamble**

The Columbia Shuswap Regional District (the Regional District) Board of Directors (the Board) wishes to adopt the following bylaw enforcement policy to establish clear procedures, expectations and standards for the Regional District's bylaw enforcement program. The policy establishes:

- staff responsibilities;
- the procedure for submitting, assessing and responding to complaints;
- the criteria required to initiate an investigation;
- the prioritization of complaints;
- the procedures for dealing with frivolous, repeat and multiple complaints;
- the investigative processes that set out the basis for enforcement;
- the requirements for notice before enforcement is undertaken; and,
- the procedures for enforcement actions.

The Regional District bylaw enforcement function is founded on a complaint-based system. The program encourages voluntary compliance and aims to reduce the scope of enforcement to serious complaints. The Board adopts an annual budget for bylaw enforcement that it considers adequate for the program and remains affordable for taxpayers. Bylaw enforcement activities are impacted by the limits of the annual budget and priorities are set for bylaw enforcement.

The bylaw enforcement policy applies to the enforcement of all Regional District bylaws. Where an investigation of the Bylaw Enforcement Officer determines a bylaw offence has occurred that is subject to the provisions of a building regulation bylaw, a Building Inspector is authorized to proceed with the investigation and enforcement action as appropriate.

The Regional District has no duty to take enforcement action with respect to every contravention of every bylaw that may be occurring within its jurisdiction, allowing discretion guided by this policy.

The Board has adopted the Ticket Information Utilization Bylaw that identifies which offences are subject to ticketing, who can issue the ticket for each offence and what penalties may be imposed for each offence. The Board may also provide other policy guidance or direction on a specific complaint. Enforcement of Regional District bylaw may be pursued in accordance with the terms of the Offence Act.

## **1.0 ROLES AND RESPONSIBILITIES**

- 1.1 Board of Directors (the Board) – Approves Regional District bylaws, the bylaw enforcement policy and the bylaw enforcement budget. The Board appoints persons as Bylaw Enforcement Officers. Enforcement actions involving direct enforcement or legal proceedings are approved by a resolution of the Board. Each Director remains uninvolved in specific bylaw enforcement decisions unless and until the matter is put on the agenda for the entire Board to consider.
- 1.2 Corporate Officer – Makes recommendations to the Board regarding the bylaw enforcement budget and legal proceedings.
- 1.3 Manager of Development Services – Makes recommendations to the Board regarding the bylaw enforcement budget, legal proceedings and bylaw enforcement policy and may, at times, assume the responsibilities of the Team Leader of Development Services.
- 1.4 Manager of Operations – Makes recommendations to the Board regarding the Dog Control enforcement budget, legal proceedings and bylaw enforcement policy and may, at times, assume the responsibilities of the Department’s Team Leaders.
- 1.5 Team Leaders (Development Services and Operations Management)
  - 1.5.1 Team Leader Development Services provides a supervisory function for the Bylaw Enforcement Officers;
  - 1.5.2 Team Leader Community Services provides a supervisory function for the Dog Control Officer;
  - 1.5.3 For departmental specific bylaws the applicable Manager, Team Leader, or Corporate Officer may:
    - 1.5.3.1 Authorize bylaw investigations in the absence of a written complaint (Section 3.1) and authorize exceptions to the required criteria for initiating enforcement action (Section 2.3);
    - 1.5.3.2 Authorize extensions to the time set to comply with a bylaw (Section 6.11);
    - 1.5.3.3 Authorize a decision to restrict contact with a person who is making repeated complaints about the same issue (Section 7.11); and,
    - 1.5.3.4 In consultation with applicable department manager, authorize correspondence with legal counsel (Section 6.16).
- 1.6 Bylaw Enforcement Officers and Dog Control Officers
  - 1.6.1 Receive, record and investigate complaints;
  - 1.6.2 Seek voluntary compliance through education and negotiation;
  - 1.6.3 Attend on-site as necessary to investigate complaints and carry out enforcement actions, including issuing tickets; and,
  - 1.6.4 Manage correspondence with legal counsel, prepare written reports and makes presentations to the Board regarding direct enforcement action or legal proceedings.
- 1.7 Building Inspector(s) – Where an investigation of the Bylaw Enforcement Officer determines a bylaw offense has occurred that was subject to the provisions of a

building regulation bylaw, the Building Inspector(s) is authorized to proceed with the investigation and the enforcement action as appropriate and as outlined in this policy.

- 1.8 Planners – Receive, review and make recommendations regarding land use and development applications that may originate from bylaw enforcement complaints.

## **2.0 SUBMISSION OF A COMPLAINT**

- 2.1 Alleged infractions of Regional District bylaws are to be reported by the complainant to the Bylaw Enforcement Officer or Dog Control Officer in accordance with the following procedures.

- 2.2 Each individual complaint shall be in writing – a letter, an email or the Regional District Bylaw Complaint Form, and shall contain the complainant's:

- name;
- address;
- phone number;
- email address, and,
- description of the nature and location of the alleged infraction as well as the impact on the complainant.

Exceptions may be granted where the complainant has a language or literacy barrier that prevents them from completing a written complaint.

- 2.3 To initiate enforcement action by the Regional District, complaints must be submitted in accordance with the following criteria:

- two (2) complete written bylaw complaints signed by unrelated; complainants from within the Electoral Area in which the property is located;
- one (1) complete written bylaw complaint signed by a complainant whose property is located within 100 metres of the subject property; or,
- one (1) written or verbal complaint from an RCMP officer.

2.3.1 The applicable Team Leader may consider and authorize exceptions to the above criteria.

2.3.2 Complaints classified as Class 1 complaints (Section 5.2), and complaints of violations of the Building Regulations Bylaw require only one (1) written bylaw complaint.

- 2.4 Anonymous or non-written complaints of alleged infractions may not be acted upon unless the alleged infraction is a Class 1 complaint (Section 5.2).

- 2.5 A complainant may be requested to sign an affidavit and/or be prepared to stand as a witness should enforcement action proceed to court.

### **3.0 OBSERVED INFRACTIONS**

3.1 The Bylaw Enforcement Officer or Dog Control Officer may commence an investigation without a written complaint pursuant to the direction of a Team Leader where:

- a bylaw violation is a Class 1 infraction;
- a bylaw violation is observed by a Bylaw Enforcement Officer, Dog Control Officer, or other employee or agent of the Regional District in the course of duties;
- a notification or referral is received from an external agency that identifies a bylaw violation associated with the property; or,
- communication undertaken with the Regional District identifies a bylaw violation (e.g., property and zoning inquiries, requests for comfort letters).

### **4.0 CONFIDENTIALITY**

4.1 Subject to the Freedom of Information and Protection of Privacy Act (FOIPPA) the identity of the complainant, any personal information they provide, and the written complaint itself, shall not be disclosed to the alleged offender or any member of the public. The response of the alleged offender shall not be disclosed to the complainant, whether it is in writing or made orally. The complainant and the alleged offender shall be informed that this information will be kept confidential unless required by court proceedings. The anonymity and confidentiality given to complainants and alleged offenders under this policy cannot be assured if the investigation results in court proceedings.

4.2 Complainants and alleged offenders are to be advised that any personal information that they provide about other parties is subject to disclosure by order of the BC Information and Privacy Commissioner. If persons apply to the Regional District for disclosure of personal information about them in complaints and in responses to the complaints under the Freedom of Information and Protection of Privacy Act, it shall be the policy of the Regional District to refuse disclosure, unless consent is obtained from the person who supplied the information and who would otherwise be assured of confidentiality. The Regional District, however, is subject to orders issued by the Information and Privacy Commissioner under the Act and will not necessarily appeal an order for disclosure.

### **5.0 PRIORITY CLASSIFICATION OF COMPLAINTS**

5.1 Upon receipt of a bylaw complaint, all bylaw infractions shall be prioritized, first according to the classification of the complaint; and second, according to the date the complaint was received.

5.2 Class 1 violations involve public health and safety risks to humans, significant adverse environmental impacts and/or harm to Regional District infrastructure. Matters are typically those which, if not addressed in a timely fashion, could result in irreversible impacts. Class 1 violations are considered paramount and receive first priority for enforcement.

- 5.3 Class 2 violations do not pose an immediate hazard to persons or property and typically do not involve significant environmental impacts. Such violations tend to have limited off-site implication and may be cosmetic in nature. Investigation of Class 2 complaints will be ranked in the order received and investigated subject to staffing, other priorities, and budgetary resources.
- 5.4 Complaints that are not related to a CSRD bylaw will not be investigated and no file will be opened; for serious complaints related to health, safety or the environment, staff will make best efforts to make complainants aware of the applicable regulatory agency that may be able to deal with their complaint and make the applicable regulatory agency aware of the issue for their information and follow-up.
- 5.5 Where complaints first require authorizations or approvals from other agencies, provincial or federal governments, such complaints will be forwarded to the applicable organization having jurisdiction for their follow-up and consideration. CSRD Bylaw Enforcement may be held in abeyance until the organization having jurisdiction has dealt with the matter.
- 5.6 The CSRD has adopted Noise Bylaw No. 5754 to provide the RCMP with an additional enforcement tool to address noise-related concerns. 21 The enforcement of Bylaw No. 5754 is at the sole discretion of the RCMP; the RCMP is authorized in MTI Bylaw No. 5776 to issue a municipal ticket for noise-related offences. CSRD staff will not be enforcing this bylaw. Upon receipt of a noise complaint, CSRD staff will explain the purpose and content of Bylaw No. 5754 to residents and direct them to their local RCMP detachment for follow-up.

## **6.0 COMPLAINT PROCESSING PROCEDURE AND ENFORCEMENT**

- 6.1 All written complaints are directed to the Bylaw Enforcement Officer or Dog Control Officer and are logged, and recorded within the electronic tracking system.
- 6.2 On receipt of a written complaint, the Bylaw Enforcement Officer or Dog Control Officer will endeavor to acknowledge receipt of the complaint in writing or by phone to the complainant.
- 6.3 The Bylaw Enforcement Officer or Dog Control Officer will advise the complainant of the criteria required to initiate enforcement action (Section 2.3) and may recommend to the complainant that additional steps be taken before further action is taken to pursue the complaint.
- 6.4 A preliminary review of the complaint is undertaken to ensure that the complaint is well founded. The preliminary review may be limited to a phone call to the complainant or it may include a site investigation.
- 6.5 If the Bylaw Enforcement Officer determines the alleged violation is in relation to a Building Regulations Bylaw, further investigation and enforcement may be undertaken by the Building Inspector.

- 6.6 The Bylaw Enforcement Officer or Dog Control Officer may not investigate an issue if, through the preliminary review it is determined by the Officer that:
- no violation exists;
  - the matter is a civil matter;
  - the matter falls outside the jurisdiction and authority of the Bylaw Enforcement Officer or Dog Control Officer; and/or,
  - the Regional District cannot take enforcement action.

Any persons involved may be notified by phone or in writing and the investigation may be halted. Correspondence with landowners and complainants will be documented by the Bylaw Enforcement Officer or Dog Control Officer.

- 6.7 When exercising discretion or determining a course of action, the Bylaw Enforcement Officer or Dog Control Officer can consider factors including, but not limited to, the following:
- the scale, number and duration of the infraction(s);
  - the current, short and long term impacts caused by the infraction;
  - the potential for precedent; and,
  - the resources available to resolve the matter.

6.8 Should an infraction be verified, the person(s) who committed the infraction will be notified in writing with a warning letter, explaining the terms of confidentiality and providing an explanation of the relevant bylaw and how the person is alleged to have contravened it, time limits for voluntary compliance, and notification of fines and other potential enforcement measures associated with the offence. Depending upon the severity of the infraction, violators may be given the opportunity to respond and achieve voluntary compliance before further action is taken. Violators should cease the activity or construction immediately until the necessary approvals are granted.

6.9 The violator may be requested to take action within thirty (30) days, or less. More time may be authorized by the applicable Manager, Team Leader or Corporate Officer.

6.10 Intermediate enforcement steps may include: a second field inspection following the thirty (30) days set for voluntary compliance and negotiation of further time to comply at the discretion of the applicable Team Leader.

6.11 Enforcement action may be taken without providing notice where a violation requires immediate action in response to an immediate risk to health, safety or the environment. After enforcement action is taken, the affected person may be provided with written reasons for the decision.

6.12 Where unlawful activity has not ceased, the Bylaw Enforcement Officer or Dog Control Officer may proceed with enforcement action, including, but not limited to, issuing tickets for bylaws listed within the Ticket Information Utilization Bylaw.

6.13 Where unlawful activity has not ceased, or where compliance is not being actively pursued, final enforcement steps may be pursued. The Bylaw Enforcement Officer

may undertake final field inspections and file updates, consult with the legal counsel in cooperation with the applicable Team Leader or Manager, and prepare a report based on the advice of legal counsel indicating whether or not direct enforcement or legal proceedings should be initiated.

If direct enforcement is recommended, the report may outline the recommended action by the Regional District, the anticipated expense, and the process to recover the costs incurred by the Regional District from the violator as a debt.

If legal proceedings are recommended, based on the advice of legal counsel, the report may identify whether the proceeding should involve:

- prosecution under the Offence Act;
- application for a Provincial Court compliance order under the Local Government Act; or,
- an application for a Supreme Court injunction.

The report may also include:

- an estimate of the cost of legal services; and,
- other possible options to the recommended course of action and the implications of those options.

The report will be approved by the Chief Administrative Officer and presented (in-camera) to the Board for final consideration, by resolution. Upon Board approval, the Regional District may initiate legal proceedings through legal counsel. If legal proceedings are to be withheld for cause (i.e., budget, extensive investment of staff time, not deemed to be in the public interest, etc.), the complainant and violator may be so advised, and the enforcement file will be closed.

If legal proceedings are approved, the Bylaw Enforcement Officer will prepare a complete review of the file for Regional District legal counsel, which may include all reports, correspondence, title documents and a certified bylaw, swearing information, preparation of a witness list, and may also appear in court as a witness if necessary.

If applicable, staff will make best efforts to advise witnesses and complainant(s) of the court action and that protection of anonymity through the Freedom of Information and Protection of Privacy Act may no longer apply in the legal proceedings.

- 6.14 It is expected that the landowner cease their illegal activity until a determination on their permit or land use amendment application has been rendered. The Regional District may continue to pursue enforcement action during the consideration of an application for a permit or a land use amendment if the landowner is not proceeding in good faith with the Regional District in attempting to gain the necessary approvals that could result in the resolution of the violation.
- 6.15 At the end of legal proceedings, the Bylaw Enforcement Officer will advise the complainant and the Board of the outcome, and close the enforcement file once

compliance has been established or the court decision renders continuing enforcement unnecessary.

## **7.0 FRIVOLOUS, REPEAT AND MULTIPLE COMPLAINTS**

- 7.1 Bylaw Enforcement Officers or Dog Control Officers may decline to investigate some complaints based on the nature of the complaint and alleged violation, the impact of the violation on the community, the impact of the violation on the complainant or other individuals, and based on this policy.
- 7.2 In the case of frivolous, repeat and/or multiple complaints, each complaint will be dealt with on its own merits and according to this policy. However, Bylaw Enforcement Officers and Dog Control Officers will endeavour to focus on balancing fairly the interests of both the individual making the complaint and the broader community. The Regional District retains the discretion not to intervene in civil matters that are clearly disputes between individuals. The Regional District may consider responding to repeated complaints only where the complainant provides new information or raises a new issue.
- 7.3 If a decision is made to restrict contact with a person who is making repeated complaints about the same issue, the decision will be made by the applicable Manager, Team Leader or the Corporate Officer. The Bylaw Enforcement Officer will clearly communicate to the complainant in writing the nature of the restrictions, the reason for them and when they may be reconsidered. The decision to restrict complaints does not prevent or limit other necessary contact with staff that is unrelated to the person's complaints.
- 7.4 With respect to Dog Control, if a decision is made to restrict contact with a person making repeated complaints about the same issue, the decision will be made by the Team Leader Community Services and will clearly communicate to the complainant in writing the nature of the restrictions, the reason for them and when they may be reconsidered. The decision to restrict complaints does not prevent or limit other necessary contact with staff that is unrelated to the person's complaints
- 7.5 Multiple complaints from different people about the same issue may be investigated as a group, rather than individually.

## **8.0 INSPECTION OF PRIVATE PROPERTY**

- 8.1 Bylaw Enforcement Officers and Dog Control Officers are authorized by the Board, without a warrant or permission from the owner or occupant, to enter private property to determine if bylaws are being followed.
- 8.2 Bylaw Enforcement Officers and Dog Control Officers will take all reasonable steps to advise the owner or occupant before entering the property unless the situation is one which bylaw or policy states that notice is not necessary, or where the issue involves public health or safety risks to humans, significant adverse environmental impacts or harm to Regional District infrastructure.

8.3 Bylaw Enforcement Officers and Dog Control Officers will only conduct enforcement action related to the issue of complaint, unless during the course of their investigation they are made aware of other bylaw infractions or other issues arise which may cause public health or safety risks to humans, significant adverse environmental impacts or harm to Regional District infrastructure.

**9.0 STAFF SAFETY**

9.1 The safety of staff and agents of the Regional District is of utmost importance. If a Bylaw Enforcement Officer or other Regional District staff or contractor is verbally or physically threatened while administering the bylaws of the Regional District, no further action shall be carried out until a private security firm can be hired or a police officer accompanies the Bylaw Enforcement Officer or other Regional District staff or contractor in carrying out their duties.

FEBRUARY 16, 2017  
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