

	Policy Title: Bylaw Enforcement Policy	Policy No: CO-016
	Authority: Council	Classification: Administration
	Date Adopted:	Motion No:
Historical Changes: Replaces Policy 9.6 Complaint and Bylaw Enforcement Policy, 2009		

Purpose:

To ensure bylaw complaints are addressed fairly and consistently. Council's goal is to achieve voluntary compliance through increased public education and awareness of District regulations and their rationale. Where voluntary compliance is not achieved, the District will, from time to time and under this policy, take enforcement action against contraventions of its bylaws.

Scope:

This policy provides guidance to staff and members of the public regarding bylaw complaints, investigations and enforcement proceedings related to alleged contravention of bylaws.

Definitions:

<i>Act</i>	means the <i>Freedom of Information and Protection of Privacy Act</i>
<i>Bylaw</i>	means a bylaw adopted by the District.
<i>Bylaw Officer</i>	means any of the following: - Animal Control Officer appointed by Council to enforce the District's Animal Regulation and Impounding Bylaw; - Bylaw Enforcement Officer of the District; - Building Inspector of the District of Sooke - Career members of the District of Sooke Fire Rescue Department - Members of the Royal Canadian Mounted Police
<i>District</i>	means the District of Sooke.

Complaint Administration Procedure:

- 1.1 Anonymous complaints will not be investigated. Complaint based investigations are to be directed to a Bylaw Officer in writing, by phone, or in-person and must include:
 - a) The name and contact information of the complainant;
 - b) A description of the nature and location of the alleged contravention.
- 1.2 Upon receipt of a written bylaw complaint, the Bylaw Officer will provide a written response acknowledging receipt of said complaint.
- 1.3 The Bylaw Officer shall maintain a written record of inspections and investigations undertaken and record the disposition of all complaints received.
- 1.4 The Bylaw Officer will provide a written response to the complainant regarding the outcome of the investigation within 10 business days.

Confidentiality:

- 2.1 The identity of a complainant is to be considered confidential and will not be disclosed to anyone for any purpose, except as required by law.
- 2.2 A response of a person under investigation may not be disclosed to the complainant. Only general information (such as investigation complete, issue rectified, case closed) may be provided to the complainant.
- 2.3 The *District* will adhere to all applicable legislation regarding privacy under the *Freedom of Information and Protection of Privacy Act*.

Investigation

- 3.1. The District will use discretion on a case-by-case basis to evaluate contraventions and take reasonable steps to investigate contraventions under this policy.
- 3.2. Investigation and enforcement priority may be given to alleged contraventions that adversely affect public health and/or the safety and security of the public within the local government's authority; adversely affect the environment, or possibly result in increased liability exposure for the District.
- 3.3. As the District does not have the resources to proactively ensure compliance with all bylaws at all times, bylaw contravention investigations will primarily be initiated on a complaint basis only.
- 3.4. Complaints that do not immediately affect life and safety of persons or property (i.e. alleged illegal secondary suites, unsightly or objectionable conditions, noise contraventions, and time limited parking) may only be investigated upon receipt of two separate written complaints registered by two or more residents from separate dwellings located within 100 metres of the alleged violation. The bylaw officer can vary this provision at their discretion based on the density surrounding the property on which the alleged violation has occurred.
- 3.5. Noise complaints require the complainant(s) to complete a noise evidence log of disturbances for a minimum of three (3) occurrences or a period of ten (10) days before enforcement action will be considered.
- 3.6. A Bylaw Officer, acting in the regular course of his or her duties, may initiate investigations and conduct inspections to determine compliance with all regulations, prohibitions, and requirements of District bylaws.
- 3.7. Council is not involved in any way with the sanctioning of an investigation or deciding what alleged contraventions will be investigated.
- 3.8. If during an investigation, the Bylaw Officer determines that the issue is a civil matter, any persons involved will be notified and the investigation halted.
- 3.9. Vexatious complaints will not be acted upon. A vexatious complaint is a complaint that is made for retaliatory or bad faith purposes or otherwise forms part of a pattern of conduct by a complainant that amounts to an abuse of the process.

Enforcement

- 4.1 The District of Sooke has no duty to take enforcement action against every contravention of a bylaw that may occur within its jurisdiction.
- 4.2 Where a Bylaw Officer has reasonable and probable grounds to believe and does believe that a violation of a bylaw exists or that abatement procedures are inadequate, the Bylaw Officer may enter upon any property to further an investigation or resolve any violation.
- 4.3 Any person who violates any of the provisions of a bylaw, or suffers or permits any act or thing to be done in contravention of a bylaw, or who neglects to do or refrains from doing any act or thing that is required to be done or any provision of a bylaw, shall be deemed to have violated the provision of the bylaw and shall be liable to penalties imposed in the relative bylaw or the Municipal Ticket Information Bylaw.
- 4.4 Each incident attended by a Bylaw Officer constitutes a separate offence and each day that such violation is permitted to continue will constitute a separate offence.
- 4.5 In determining whether to commence enforcement proceedings, the District may consider one or more of the following criteria:
- a) The scale, nature, and duration of the contravention;
 - b) The amount of time that has elapsed since the contravention occurred;
 - c) The impact of the contravention on the community;
 - d) The resources available to resolve the matter;
 - e) The costs associated with enforcement action;
 - f) Whether public safety is at risk;
 - g) Whether enforcement may be a deterrent in future cases.
- 4.6 The District's primary enforcement objective is to obtain voluntary compliance. Individuals who are being investigated will be requested to comply with bylaw requirements and be provided the opportunity to achieve compliance before further action is taken to the limits noted in bylaws or as outlined in this policy.
- 4.7 If voluntary compliance is not achieved, the District may exercise enforcement powers in accordance with the following remedies:
- a) The issuance of a Stop Work Order
 - b) The issuance of an Order to Comply;
 - c) The issuance of a Municipal Ticket Information;
 - d) Quasi-criminal proceedings in Provincial Court, including prosecutions under the *Offence Act*, and any other remedy set out in Section 260 of the *Community Charter*;
 - e) Supreme Court injunction proceedings as set out in Section 274 of the *Community Charter*;
 - f) Remedial action and any other remedy as set out in Part 3, Divisions 5-12 of the *Community Charter*, and the District may further seek to fulfill those requirements at the expense of the person in contravention, under the provisions of Section 17 of the *Community Charter*.
- 4.8 The District retains the discretion not to commence enforcement proceedings under one or more of the criteria listed in the "Enforcement" section of this policy.

References:

Policy Number:	CO-016
Policy Owner:	Corporate Services
Endorsed by:	Leadership Team

Final Approval:	Council
Date Approved:	October 25, 2021
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Revision Date:	
Related Policies:	OP-026 – Conducting Investigations
Related Publications:	• Business Licence Policy

Contact Information:

Position: Director of Corporate Services