



Bylaw Enforcement Procedures Policy

13211 Henry Ave, Box 159 Summerland BC V0H 1Z0
www.summerland.ca

Policy No. 100.22

Established: March 8, 2021

Contact Department: Development Services

1. POLICY OBJECTIVE:

The purpose of this policy is to clearly outline and standardize the process of Bylaw Enforcement for Council and Staff of the District of Summerland and our Citizens. The District will use discretion on a case-by-case basis to evaluate contraventions and take reasonable steps to investigate contraventions in accordance with this policy and operational guidelines of the District.

Council provides guidance to staff on how to apply the Bylaw Enforcement Procedures Policy but are not involved in day-to-day bylaw enforcement decisions.

2. DEFINITIONS:

Bylaw means a bylaw adopted by the District of Summerland.

Bylaw Enforcement Officer means any person appointed or designated by the Council of the District of Summerland under the Community Charter to enforce the provisions of the District bylaws.

Director of Development Services means the manager, whose title may change from time to time, responsible to the CAO for the provision of the Bylaw Enforcement function for the District.

District means the District of Summerland.

3. CONFIDENTIALITY:

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, and in accordance with the following provisions:

3.1 The complainant's identity may not be disclosed to the person under investigation or any member of the public;

3.2 Bylaw enforcement file details may not be discussed with a complainant;

3.3 All Legislative requirements regarding FIPPA (Freedom of Information and Protection of Privacy Act) apply to Bylaw Enforcement investigations.

4. COMPLAINT PROCESS:

4.1 Public complaints are to be made in writing. To make an official complaint, the complainant must provide:

- a) Their name, contact information, and address; and
- b) A description of the nature and location of the alleged violation, and any persons that may have been involved in the alleged violation.

4.2 Complainants may be asked to take additional steps before the District agrees to investigate the matter.

4.3 The District will not investigate anonymous complaints unless foreseeable safety, health, or liability issues are identified.

4.4 All complaints will be acknowledged within 2 business days and investigated on a priority basis by a District of Summerland Bylaw Enforcement Officer.

4.5 Complaints will be prioritized as follows:

- a) **Priority 1: Health & Safety** – The alleged violation may adversely impact the health, safety, and security of other persons, property, or buildings.
- b) **Priority 2: Damage to the Environment** – The alleged violation is significantly impacting the environment and/or in violation of environmental regulations.
- c) **Priority 3: District Property** – The alleged violation is occurring on District property and is significantly impacting the property or public.
- d) **Priority 4: Impact to Property** – The alleged violation is significantly impacting adjacent properties in a negative manner but does not pose an immediate risk to public health and safety.
- e) **Priority 5: General Violation** – The alleged violation may be a matter that is a general neighborhood concern.

4.6 Complaints that are considered to be frivolous or vexatious by the Bylaw Enforcement Officer will be referred to the Director of Development Services for a determination of the final outcome.

A complaint will be deemed to be a frivolous or vexatious complaint if:

- a) all steps have been taken to resolve the complaint or issue;
- b) the complainant continues to make complaints on the original issue;
- c) the complaint is deemed by the District to be:
 - i. not in the public interest;
 - ii. not within the jurisdiction of the District; or
 - iii. more appropriately managed by the complainant through their own access to the civil resolution process (i.e. Small Claims, Residential Tenancy Branch, etc.);

5. INVESTIGATION:

- 5.1 The provisions of the *Community Charter* allow a Bylaw Enforcement Officer to enter onto private property to inspect and determine whether all regulations, prohibitions, and requirements are being met in relation to any matter for which the Council has exercised authority under this or any other *Act* to regulate, prohibit, or impose requirements.
- 5.2 Information collected during an inspection, including any complaint associated with an investigation, must be protected in accordance with the *Freedom of Information & Protection of Privacy Act*.
- 5.3 The District of Summerland has no duty to take enforcement action with respect to every contravention of a bylaw that may occur within its jurisdiction. Enforcing the District's own bylaws is therefore discretionary and not mandatory.
- 5.4 All cases will be managed without prejudice, bias, and in accordance with principles of procedural fairness to ensure that enforcement is effective, will maintain the District's credibility, and is carried out with integrity.
- 5.5 Although the District of Summerland's Bylaw Enforcement Officers primarily operate on a complaint basis, a Bylaw Enforcement Officer is authorized to initiate investigations and conduct inspections without the requirement of a complaint to determine compliance with all regulations, prohibitions, and requirements of the District's Bylaws.
- 5.6 Bylaw Enforcement Officers will only collect personal information that is necessary for the monitoring and enforcement of an alleged bylaw infraction.
- 5.7 Any information related to an offence under investigation should be documented and/or collected to support any potential prosecution of a ticket or other enforcement action. Such documents are to be kept in the relevant enforcement file.

6 ENFORCEMENT:

- 6.1 Where a Bylaw Enforcement Officer has reasonable and probable grounds to believe that a violation of a bylaw exists, they may enter upon any property to further an investigation or resolve any violation.
- 6.2 Any person who violates any provisions of a bylaw, or who suffers or permits any act or thing to be done in contravention of a bylaw, shall be liable to the penalties imposed in the Municipal Ticket Information Bylaw or the Bylaw Notice Enforcement Bylaw, and all amendments thereto.

6.3 As the District's primary enforcement objective is voluntary compliance, individuals being investigated will be given the opportunity to voluntarily comply and/or remedy the contravention.

6.4 If voluntary compliance is not achieved, the District may exercise enforcement powers in accordance with the following remedies:

- a) Bylaw Offence Notice;
- b) Municipal Ticket Information;
- c) Proceedings in Provincial Court;
- d) Supreme Court proceedings as set out in the *Community Charter* and the *Offence Act*;
- e) Remedial actions as set out in the *Community Charter*.

6.5 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; and
- g) Whether enforcement may be a deterrent in future cases.

6.6 A violation related to a **Priority 1, 2 or 3 Complaint** can result in active enforcement measures immediately and warning letters may not be issued.

6.7 The Bylaw Enforcement Officer will seek legal action (i.e. long-form prosecution and/or civil litigation) as a last resort if all other avenues of enforcement are exhausted and met with non-compliance.

6.8 The District retains the discretion not to commence enforcement proceedings.

6.9 Policy No. 100.16 is hereby repealed

Amendments/Reviews

Date of Council Consideration	Resolution/Report	Description