

<b>Subject:</b> Bylaw Enforcement Policy	
<b>Category:</b> Governance	<b>Policy Reference:</b> 4000-00
	<b>Date:</b> February 3, 2010

**Policy Statement:**

The objective of the bylaw enforcement policy is to provide certainty and consistency in the enforcement of regional district bylaws. The bylaw enforcement policy identifies roles, responsibilities, enforcement authority and methods, and the related policies and operational guidelines to enforce the regional district bylaws.

The board has no duty on the part of the regional district to take enforcement action with the respect to every contravention of every bylaw that may be occurring within its jurisdiction. Discretion must be exercised by the board on a case-by-case basis and must not be made in bad faith.

**Policies:**

**1. Inquiries**

- (1) All inquiries regarding bylaws shall be handled in a timely and responsive manner by the branch and subsequent staff responsible for the service.
- (2) Media inquiries regarding the status of a bylaw enforcement matter shall be directed to the general manager of public affairs and information systems.
- (3) All board inquiries relating to bylaw enforcement shall be directed to the chief administrative officer.

**2. Complaint Process**

- (1) All enforcement complaints must be submitted in writing before they will be considered for investigation. All complaints require contact information and anonymous complaints will not be addressed. Email is an acceptable form of written complaint.
- (2) The priority of enforcement complaints shall be the following: any danger to health, safety or property; any inconvenience to the public or other property owners; and then routine matters related to zoning regulations.
- (3) All enforcement matters are considered confidential and every effort will be made to ensure confidentiality of the complainant. However, the *Freedom of Information and Protection of Privacy Act*. Section 15(1) (d) gives the regional district discretion in identifying a confidential source of law enforcement information. A complainant may need to be identified if the complainant's evidence is crucial in court to an enforcement action.

- (4) All written complaints are to be forwarded to the manager of bylaw compliance and special investigations except for matters relating to building bylaws which are to be forwarded to the manager of building services. If the concern raised is from regional district staff, then the chief administrative officer should be advised and then the appropriate general manager.
- (5) The members of the board are not to be involved in any way with the sanctioning of an investigation, making a decision on who shall be investigated or the assessment of a complaint.

### 3. Investigation Process

The following are the investigation process guidelines:

- (1) A letter is sent acknowledging receipt of the complaint and an explanation of the course of investigation action to be taken; and
- (2) A preliminary review of the complaint is undertaken to ensure that the complaint is well-founded.
- (3) Part of the review may include gathering of evidence in support of the bylaw investigation. Statements from all witnesses should be obtained when possible and follow the prescribed statement taking format.
- (4) If no violation exists, the complainant is so advised and a record of the inquiry filed.

### 4. Enforcement

- (1) In considering how to enforce an alleged offence the following criteria may be taken into account for the investigation:
  - a. The duration of the alleged violation
  - b. Whether similar violations have occurred in the past
  - c. The policy implications of the enforcement action
- (2) There are several enforcement options available to the regional district when an alleged offence is confirmed:
  - a. **Voluntary compliance-** The individual is contacted and the alleged violation is outlined. Their co-operation is sought and a deadline to comply is negotiated.
  - b. **Quasi-criminal proceedings in provincial court-** Includes ticketing, a long form information, or a consent order.
  - c. **Injunction proceedings-** An injunction is a court order directing a person to do, or not to do, a specified act. The provincial court has no jurisdiction to grant injunctions. Orders in respect to acts that are breaches of regional district bylaws must be sought in Supreme court. As a result, injunction proceedings are conducted by a lawyer and require a board resolution before action is commenced.
  - d. **Direct enforcement-** Direct enforcement involves carrying out enforcement remedies and adding the cost of doing so to the taxes without the authorization of a court decision. Direct enforcement action requires a board resolution before any action is commenced.

## 5. Reporting To Board

- (1) On each enforcement matter that may require Supreme Court or direct action on the part of the board, a report will be provided to the board that includes the history and recommended action. Also included in the report shall be the legal status of the enforcement matter as required.
- (2) The general manager of public affairs and information systems shall ensure that reports are made to the board semi-annually or as required.
- (3) The general manager of property services shall report to the board as required regarding the regional district building bylaws.

## 6. Staff Safety

- (1) The safety of staff and/or agents of the regional district is upmost. If an enforcement officer and/or agent are verbally or physically threatened while administering the bylaws of the regional district, then no further investigative action shall be carried out until a private security firm can be hired or a police officer accompanies the bylaw compliance officer and/or agents.
- (2) The general manager of public affairs and information systems shall make arrangements for staff to be accompanied by a private security firm or a police officer(s) as required when it is believed that staff's safety may be at risk while administering the bylaws of the regional district.

## Operational Guidelines:

### 1. Voluntary Compliance Process

The following are the voluntary compliance process guidelines:

- (1) The alleged offender is contacted personally or by letter and the alleged violation is outlined
- (2) If a violation exists, then the property owner and/or occupant's cooperation is sought.
  - a. They may be asked to cease activity immediately, or a deadline to comply may be negotiated. They are also advised that failure to comply could result in further legal action; or
  - b. bylaw compliance officer may meet with a violator to review the nature of the violation and to advise options on how to achieve compliance with the bylaws

### 2. Enforcement Process

The following are the enforcement process guidelines:

- (1) Where activity has not ceased or where compliance is not yet achieved, the bylaw compliance officer may use ticketing to encourage voluntary compliance; and
- (2) Where activity has not ceased or where compliance is not achieved the bylaw compliance officer may prepare one of the following:

- a. a report for board indicating whether or not direct enforcement or injunctive proceedings may be required, or
- b. a report for the chief administrative officer indicating whether further enforcement such as a long form information or consent order may be required.

### **3. Injunctive Proceedings Process**

The following are the injunctive proceedings process guidelines:

- (1) The chief administrative officer will request legal counsel to commence bylaw enforcement proceedings; and
- (2) At the end of the proceedings, the complainant and the board, if required, will be advised of the outcome, and the file closed.

### **4. Direct Enforcement Process**

The following steps outline the direct enforcement process guidelines:

- (1) Once all other options to achieve compliance have been exhausted, then a letter is sent to the owner clearly outlining the required tasks. The letter must advise that failure to comply with the bylaws within the outlined time frame will result in staff requesting that the board pass a resolution to effect compliance on the subject property and any expenses that year will be added to the property taxes as taxes in arrears if they are not paid by December 31<sup>st</sup>;
- (2) Should the owner fail to comply with the bylaws within the given time frame as outlined in the first letter, one of two steps must follow:
  - a. a letter is sent to the owner advising them that they have failed to comply with the bylaws of the regional district and a staff report will now be forwarded to the board asking for a resolution to effect compliance on the subject property. The letter must be sent to every owner on title, or to all occupants; or
  - b. a letter is sent to the owner advising them that they have failed to comply with the bylaws for the regional district and a staff report will now be forwarded to the board asking for a resolution to effect compliance on the subject property. The letter must be sent to every owner on title, or to all occupants. If the subject property requires that substantial work be completed before compliance is achieved, then staff will obtain estimates for the costs of the clean up and advise the owner of the estimated costs of the clean up should the regional district effect compliance
- (3) Once a staff report has gone to the board, then the following may occur:
  - a. if a resolution has been passed, then a letter is sent to the owner(s) of the property, stating that a resolution has been passed to enforce and effect clean up. Should the property not be brought into compliance within 30 days, then any costs incurred as a result of the clean up to achieve compliance, if not paid, will be added to the taxes payable as taxes in arrears; or
  - b. if direction given by the board was to not proceed with direct enforcement, then letters are sent to the owner(s), occupant(s) and complainant(s) that the board decision was not to proceed with direct enforcement.

**Approval History**

Policy adopted:	March, 2010
Policy amended:	