

CORPORATE POLICY

Policy No.: RD-18-20
Policy Name: Bylaw Enforcement
Date Approved: September 17, 2020

Next review:

Purpose:	To establish guidelines for the investigation and enforcement of Regional District bylaws to improve consistency in enforcement practices.
Authority:	<i>Local Government Act</i>
Scope:	This policy shall apply to the investigation and enforcement of alleged Contraventions.

Definitions: “Board”	means	Board of Directors of the Regional District of Fraser-Fort George
“Building Regulations”	means	the BC Building Code or Regional District of Fraser-Fort George Building Bylaw No. 3239, as amended or replaced
“Bylaw Enforcement Officer”	means	same meaning the same as defined in the Regional District Officer Position Establishment Bylaw No. 3073, 2018, as amended or replaced
“Complainant”	means	a person who submits a complaint about a Contravention
“Contravener”	means	anyone who has, or is alleged to have, committed a Contravention and may be an owner and/or occupier of land
“Contravention”	means	violation of any Regional District regulatory bylaw or causing, allowing or permitting an unsafe condition or Contravention of provincial Building Regulations as described in Section 73(1)(a) or (b) of the <i>Community Charter</i> , as it applies to Regional Districts, as amended or replaced
“Electoral Area”	means	an unincorporated area within the boundaries of a Regional District defined by the Regional District’s Letters Patent
“Frivolous Complaint”	means	a complaint that alleges a technical or trivial Contravention and includes, but is not limited to: <ul style="list-style-type: none"> a. a complaint about a Contravention that is so minor in nature that there would be no serious value or purpose to taking

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- enforcement action regarding it, and
- b. a complaint about a Contravention where the Complainant does not provide any sufficient information that a Contravention occurred.

“Manager” means the General Manager of Development Services or designate

“Public Body” means the same as defined in the *Freedom of Information and Protection of Privacy Act*

“RCMP” means the Royal Canadian Mounted Police

“Regional District” means the Regional District of Fraser-Fort George

“Repetitive Complaint” means a complaint about an actual or suspected bylaw Contravention that has already been investigated previously, or an actual or suspected bylaw Contravention that is very similar to a matter that has already been investigated but does not include circumstances where significant new evidence has arisen since the previous investigation.

“Vexatious Complaint” means a complaint that is made in bad faith or is an abuse of process and includes, but is not limited to:

- a. a complaint made only, or primarily for, vindictive or retaliatory purposes;
- b. a complaint made only, or primarily, to harass, annoy or embarrass any person;
- c. a complaint made only, or primarily, to interfere with, or distract attention or resources away from, another investigation; or
- d. a complaint where the Complainant provides false or misleading information

Policy: The Regional District will employ fair, reasonable, transparent, equitable and objective methods in receiving complaints, conducting investigations, and carrying out enforcement proceedings as they relate to Regional District regulatory bylaws.

- General:**
1. The Regional District bylaw enforcement function is founded on a complaint-based system.
 2. Complaints that are not related to a Contravention may not be investigated.

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3. The Regional District has no duty to take enforcement action with respect to every Contravention that may be occurring within its jurisdiction. When deciding whether or not to take enforcement action, staff should consider Regional District resources, need and priority classification of the complaint.
4. Bylaw enforcement activities are impacted by the limits of the annual budget and priorities that are approved for Bylaw Enforcement and Building Inspection Services.

Submission of Complaints:

1. Alleged Contraventions are to be reported by the Complainant to a Bylaw Enforcement Officer.
2. Each individual complaint shall be in writing on a Bylaw Complaint Form and must contain:
 - (a) the Complainant's name;
 - (b) the Complainant's address;
 - (c) the Complainant's contact information (phone number and/or email address);
 - (d) the name of, or sufficient description of, the Contravener, if known;
 - (e) the location of the alleged Contravention;
 - (f) description of the nature of the alleged Contravention;
 - (g) the impact of the alleged Contravention on the Complainant, if applicable;
 - (h) an acknowledgment by the Complainant that the anonymity and confidentiality given to Complainants may not be able to be maintained if court action is required; and
 - (i) an acknowledgement that, in order to achieve compliance, the Complainant may be requested to swear an affidavit and/or stand as a witness in court.

A Bylaw Enforcement Officer may grant exceptions from the requirement to submit a written complaint where there are extenuating circumstances that prevent the Complainant from doing so. Examples may include, but are not limited to, language or literacy barriers or persons with limitations which prevent or impede their ability to write.

The Bylaw Complaint Form may be amended as required by the Manager.

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Priority Classification of Complaints:

1. All complaints are subject to prioritization and classified by the Bylaw Enforcement Officer according to the following categories. Priority 1 complaints are the highest priority with Priority 2 and 3 being considered in descending order.

- (a) **Priority 1:** Multiple Priority 2 Contraventions or a bylaw Contravention likely to cause significant health and/or safety issues and/or cause significant negative impact to the community or the environment.

Examples include but not limited to: Non-conforming land use where significant environmental, health or safety concerns exist, construction or alterations of a structure or secondary suite without a permit with health and safety building regulation Contraventions, inadequate exiting and/or fire protection in a structure, damaged open building, open holes in the ground, storing hazardous materials.

- (b) **Priority 2:** Multiple Priority 3 Contraventions or a bylaw Contravention with potential to cause health and/or safety issues and/or negatively impact the community or the environment.

Examples include but not limited to: Unsightly premises with significant rubbish on property, non-conforming land use impacting adjacent properties in a negative manner, construction or alterations of a structure or secondary suite without a permit with no significant safety issues.

- (c) **Priority 3:** Any complaint that is not Priority 1 or Priority 2.

Examples include but not limited to: minor construction or renovations without building permits where there are no concerns relating to health and safety and the use and building comply with the land use, minor encroachments into setbacks, minor unsightly premises.

2. Within each category, complaints will be prioritized based on the following factors:
 - (a) Immediacy of risk to health, safety, or property;
 - (b) Number of people affected;
 - (c) Date complaint was received; and
 - (d) Whether similar Contraventions have occurred in the past.

Investigation:

1. The Regional District may refuse to investigate complaints which do not meet one or more of the following criteria:
 - (a) one (1) complete written complaint submitted by a Complainant whose property is located within 1,500 metres of the subject property; or
 - (b) two (2) complete written complaints submitted by unrelated

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- Complainants from within the Electoral Area in which the property is located; or
- (c) one (1) written complaint submitted by personnel from a Public Body in the Province of British Columbia or the RCMP; or
 - (d) one (1) written complaint submitted by a Regional District employee discovered while performing their duties.
2. A Bylaw Enforcement Officer may decline to investigate a complaint if, through the preliminary review it is determined by the Bylaw Enforcement Officer that:
- (a) no Contravention exists;
 - (b) the subject of the complaint cannot be identified;
 - (c) the matter is a purely private civil matter;
 - (d) the matter falls outside the jurisdiction and authority of the Regional District; or
 - (e) the matter is Vexatious, Frivolous, or involves Repetitive Complaints.
3. Notwithstanding any provision of this policy, the Manager may direct a Bylaw Enforcement Officer to investigate a Contravention, even if no complaint has been received or a complaint has been received which does not conform to the requirements of this policy, if the Manager is satisfied it is in the public interest or warranted due to exceptional circumstances which justify it.
4. Multiple complaints from different people about the same issue may be investigated as a group, rather than individually.
5. A Bylaw Enforcement Officer may delay the investigation of a complaint made by a Contravener until that Contravener's bylaw enforcement process has been concluded unless the complaint pertains to a Priority 1: Health and Safety matter.
6. Subject to the *Freedom of Information and Protection of Privacy Act* (FOIPPA), where complaints involve other enforcement agencies within the provincial or federal governments, such complaints and information may be shared with the respective organizations having jurisdiction for their follow-up and consideration. The Regional District may suspend any investigation or enforcement action until the organization having jurisdiction has dealt with the matter.

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- Enforcement:**
1. A Bylaw Enforcement Officer may utilize one or more of the following options to achieve compliance:
 - (a) voluntary compliance;
 - (b) enforcement action, including, but not limited to:
 - (i) have the Building Inspector issue a Stop Work Order;
 - (ii) have the Building Inspector issue a Do Not Occupy notice;
 - (iii) issuing a compliance order(s) pursuant to the applicable bylaw;
 - (iv) issuing a ticket(s) pursuant to the applicable bylaw; or
 - (c) have the Building Inspector recommend a Notice on Title be registered on Title of the property;
 - (d) recommend to the Board remedial action(s) be undertaken by the Regional District;
 - (e) recommend to the Board to proceed with legal proceedings, including, but not limited to, prosecution under the *Offence Act* or filing a notice of civil claim, petition, or application to a court of competent jurisdiction.
 2. Notwithstanding Enforcement – Section 1 above, as part of the investigation of a Contravention, a Bylaw Enforcement Officer may, on approval of the Manager, apply for and obtain a warrant to enter property to carry out the investigation.
 3. The owner or occupier may be required to cease any activity that is contrary to Regional District bylaws until applicable approvals from the Regional District are granted. The Regional District may continue to pursue enforcement action during the consideration of an application for a permit or a land use amendment.
 4. No further action may be required to enforce the Building Regulation Contravention where a Notice on Title is placed on a property for a personal use low hazard industrial occupancy building (BC Building Code Occupancy Classification F-3) Contravention or where the complaint would be classified as Priority 3,
 5. Appendix A will be used as general guidance by the Bylaw Enforcement Officer for most common enforcement measures. These enforcement measures may not proceed in the order listed and may be omitted or escalated depending on the Contravention and how it is proceeding.
- Confidentiality**
1. Personal information will be protected unless required to be disclosed by law in accordance with the applicable legal requirements.

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Safety

1. If a Bylaw Enforcement Officer or agent of the Regional District is verbally or physically threatened while undertaking their duties for the Regional District, all actions may be halted until a private security firm can be hired or an RCMP officer can accompany the Bylaw Enforcement Officer, Regional District staff or agent in carrying out their duties.
2. The Bylaw Enforcement Officer or agent may submit a complaint to the RCMP regarding any verbal or physical threats received while undertaking their duties related to bylaw enforcement for the Regional District.

Board of Directors

1. Individual Directors of the Board will remain uninvolved in specific bylaw enforcement investigations and decisions unless the matter is forwarded to the Board as a whole for consideration.
2. Individual Directors of the Board will not sanction, direct, investigate or assess a complaint.
3. All Board inquiries related to bylaw enforcement shall be directed to the Chief Administrative Officer or Manager.

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APPENDIX A – Most Common Enforcement Measures

Most Common Bylaw Contraventions		Most Common Enforcement Measures								
		Stop Work Order	Do Not Occupy Notice	Bylaw Notice	Compliance Order	Solicitor Notification	Notice on Title	Remedial Action	Concert Order	Court Proceedings
Priority 3	Minor construction or renovations without building permits where there are no concerns relating to health and safety									
	Minor encroachments into setbacks									
	Minor unsightly premises									
Priority 2	Construction or alterations of a structure or secondary suite without a permit with no significant safety issues									
	Unauthorized dwelling									
	Non-conforming land use impacting adjacent properties in a negative manner									
	Unsightly premises with significant rubbish on property									
Priority 1	Construction or alterations of a structure or secondary suite without a permit with health and safety building regulation contraventions									
	Inadequate exiting and/or fire protection in a structure									
	Non-conforming land use where significant environmental, health or safety concerns exist									
	Damaged open building or open holes in the ground									

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