

POLICY STATEMENT AND REGULATIONS

Number 100.16

BYLAW ENFORCEMENT

POLICY OBJECTIVE:

The District of Summerland will, from time to time and in accordance with this policy, take enforcement action with respect to contraventions of its bylaws. It is the goal of Council to achieve voluntary compliance through increased public education and awareness of District regulations and their rationale. To address complaints in a fair and consistent manner, a policy is required for the general enforcement of bylaws.

The purpose of this policy is to provide guidance to staff on the receipt of complaints and initiation of investigation and enforcement proceedings related to contraventions of bylaws. 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. 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 may provide other policy guidance or direction on specific complaints or enforcement issues.

DEFINITIONS:

For the purposes of this policy:

“District” means the District of Summerland.

“Bylaw” means a bylaw adopted by the District of Summerland.

“Bylaw Officer” means any of the following:

- a. Chief Administrative Officer of the District of Summerland, or designate;
- b. Bylaw Enforcement Officer of the District of Summerland;
- c. Animal Control Officer of the District of Summerland;
- d. Building Inspector of the District of Summerland;
- e. Members of the Royal Canadian Mounted Police and Auxiliary RCMP Officers;
- f. Fire Chief of the District of Summerland, or designate.

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:

1. The complainant’s identity may not be disclosed to the person under investigation or any member of the public;

2. A response of a person under investigation may not be disclosed to the complainant. Bylaw enforcement files may not be discussed with a complainant after the initial submission of a complaint;
3. Where a person submits a request pursuant to the *Freedom of Information and Protection of Privacy Act* for the disclosure of personal information contained in a bylaw enforcement file, it is the District's policy to refuse disclosure under the applicable sections of the *Freedom of Information and Protection of Privacy Act*, unless consent is obtained by the person who supplied the information;
4. Despite the foregoing, the District will not guarantee the anonymity and confidentiality of complainants and may disclose personal information in bylaw enforcement files in the following circumstances:
 - a. If the complaint has been publicly disclosed by the complainant;
 - b. If the investigation results in enforcement proceedings;
 - c. If disclosure is required pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*;
 - d. If an order for disclosure is issued by the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*;
 - e. As otherwise required by law.

INVESTIGATION:

1. The majority of District bylaws are enforced on a complaint basis only.
2. 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. Complaint based investigations must be initiated by written complaint. A complaint with respect to an alleged contravention of a bylaw must be documented in writing before the complaint will be considered for investigation, and must contain:
 - a. The name and contact information of the complainant;
 - b. A description of the nature and location of the alleged contravention.
4. Investigation and enforcement priority may be given to alleged contraventions that adversely affect the health, safety and security of the public; adversely affect the environment; or possibly result in increased liability exposure for the District.
5. Council is not involved in any way with the sanctioning of an investigation or deciding on who shall be investigated.
6. 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.

ENFORCEMENT:

1. 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, he or she may enter upon any property to further an investigation or resolve any violation.
2. Any person who violates any of the provisions of a bylaw, or who 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 by any provision of a bylaw, shall be deemed to have violated the provision of the bylaw and shall be liable to the penalties imposed in the Municipal Ticket Information Bylaw, and all amendments thereto, and/or the Bylaw Notice Enforcement Bylaw, and all amendments thereto.
3. 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. 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.
5. 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 given the opportunity to achieve compliance before further action is taken to the limits noted in bylaws or as outlined in this policy.
6. If voluntary compliance is not achieved, the District may exercise enforcement powers in accordance with the following remedies:
 - a. Southern Interior Bylaw Notice Dispute Adjudication Registry as set out in the Corporation of the District of Summerland Southern Interior Bylaw Notice Dispute Adjudication Registry Agreement Bylaw;
 - b. Quasi-criminal proceedings in Provincial Court and any other remedy as set out in the *Community Charter*;
 - c. Supreme Court injunction proceedings as set out in the *Community Charter*;
 - d. Remedial action and any other remedy as set out in the *Community Charter*, and the District may seek to fulfill those requirements at the expense of the person in contravention, in accordance with the provisions in the *Community Charter*.
7. The District retains the discretion to not commence enforcement proceedings in accordance with one or more of the criteria listed in the 'Enforcement' section of this policy.

8. The Bylaw Officer shall maintain a written record of inspections and investigations undertaken and record the disposition of all complaints received.

PENALTY:

1. Tickets issued for offences against bylaws are authorized by the Municipal Ticket Information Bylaw, and amendments thereto, and fines will be in accordance with the Bylaw Notice Enforcement Bylaw, and amendments thereto.

ADOPTED: March 13, 2017