



Policy No. 9.6
File No.4000-01
Adopted by Council June 22, 2009

Complaint and Bylaw Enforcement Policy, 2009

Policy Statement:

The purpose of bylaw enforcement is to achieve compliance with District of Sooke municipal bylaws. Complaints normally arise where persons do not comply with municipal bylaws and non-compliance adversely affects another party. This policy may be interpreted as a guide with respect to the enforcement of the bylaws of the municipality. Council may provide other policy guidance or direction on specific complaint or enforcement issue.

1. General Provisions:

- 1.1 Bylaw Enforcement Officers (BEO) will respond to complaints and will actively enforce all bylaw infractions that they become aware of, consistent with the policies set out below, notwithstanding that all matters related to public health and safety will be investigated as soon as possible and take priority over other issues.
- 1.2 In responding to complaints and except in cases related to public health and safety, the highest priority will be to respond to written complaints where the complainants have provided their name, address and telephone number.
- 1.3 At the discretion of the Head of Bylaw Enforcement Services, property related complaints such as alleged illegal suites, unsightly premises, etc. will only be investigated upon receipt of two separate complaints registered by two or more residents/owners who reside in or own separate dwellings within 100 metres of the property.
- 1.4 Priority on routine matters such as no permits, violations of the Zoning bylaw, etc. will be determined on the basis of the order received and the efficiency to be gained through investigating several complaints at once.
- 1.5 During the regular course of their duties, the BEO may seek out bylaw infractions for issues of public health and/or safety or other bylaw violations.

- 1.6 Bylaw enforcement is sought, in the first instance, through voluntary compliance. Individuals who are being investigated will be instructed to cease the activity and given the opportunity to achieve compliance before further action is taken to the limits noted in municipal bylaws or as outlined below.
- 1.7 Compliance may be encouraged through notification of fines and other enforcement measures associated with the offence.
- 1.8 Injunctive proceedings, ticketing and/or summary conviction proceedings may be initiated if a violator fails to take first action to achieve compliance within 90 days of the first warning correspondence, or sooner is applicable.
- 1.9 Except for issues affecting public health and safety, bylaw investigation is generally undertaken only in response to written complaints of a violation by any person or where complainants have provided their name, address and a telephone number where they may be contacted. Identities of complainants are protected under the Freedom of Information and Protection Act. The District of Sooke will generally not respond to anonymous complaints.
- 1.10 With the exception of noise complaints generally handled by the RCMP, noise complaints such as loud equipment, etc. are to be handled by the BEO.
- 1.11 Complaints respecting the parking or storage of vehicles on private property, contrary to the Zoning Bylaw, are to be handled by the BEO. The BEO will work with the RCMP to respond to complaints respecting the parking or storage of vehicles on municipal rights-of-way, boulevards, lanes or streets.
- 1.12 Council is not involved in any way with the sanctioning of an investigation or making a decision on who shall be investigated.
- 1.13 Where voluntary compliance fails, and where injunctive proceedings are proposed, and the Chief Administrative Officer (CAO), will request approval from Council to commence bylaw enforcement legal proceedings.
- 1.14 If during an investigation, the BEO determines that the issue is a civil matter, any persons involved will be notified and the investigation halted.

2. Procedure:

- 2.1 All complaints are directed to the BEO who will undertake a preliminary review of the complaint to ensure that the complaint is well founded.
 - a. If no violation exists, the complainant and the violator are so advised and a record of the enquiry filed.
 - b. If a violation exists, the alleged violator will be verbally and/or in writing asked to cease activity immediately and a record of the issue will be filed. The BEO will follow-up with a site visit to determine compliance.
 - c. Initially, the BEO will verbally where possible attempt to achieve voluntary compliance with the alleged violator and inform the violator of time limits for voluntary compliance. If the violation continues, a bylaw enforcement file will be opened on the issue and compliance may be encouraged through use of fines outlined in the bylaw. Where useful, alternate dispute resolution processes such as mediation or negotiation deemed may be used to achieve compliance. If the violation does not cease, a full investigation will be undertaken, the BEO may forward letters demanding compliance, and may undertake remedies authorized by bylaw. The BEO will maintain a record of all complaints received and action taken to resolve.
- 2.2 Where activity has not ceased or where compliance is not achieved, the BEO through the CAO will present a report to the Committee of the Whole. The report will indicate why injunctive proceedings, summary conviction or remedial action are not being sought or will request funding for injunctive proceedings. The report will be forwarded to Council for approval to commence legal proceedings. Council will decide whether to provide funding for legal action, decline to do so, or recommend other actions.
- 2.3 Following approval, the BEO, with the assistance of legal counsel, will initiate legal proceedings. If legal proceedings are to be withheld for cause, i.e. insufficient funds, etc., the complainant and violator may be so advised.
- 2.4 At the end of the proceedings the complainant, the violator, and Council will be advised of the outcome and the file closed.
- 2.5 Throughout the bylaw enforcement process, all parties must adhere to the regulations contained in the *Freedom of Information and Protection of Privacy Act* in order to protect the identities of the parties.