



THE CORPORATION OF THE DISTRICT OF CENTRAL SAANICH

COUNCIL POLICY

Effective Date July 7, 2014 Amendment Date(s): January 15, 2018	POLICY NO. 11.ADM File No: 0340-50-2014-01
SUBJECT: BYLAW ENFORCEMENT	
Category: Administration	

Purpose

The objective of the Bylaw Enforcement Policy is to obtain compliance with municipal bylaws through effective enforcement based on consistency and fairness.

Introduction

Municipal bylaws are enacted by District Council, under the regulatory authority of the Community Charter and the Local Government Act, in order to preserve the quality of life in the District. The primary goal in dealing with contraventions of these bylaws is to achieve voluntary compliance through communication and education; however, the bylaws do include provisions for further enforcement. The District recognizes that with limited resources, it is not possible to pursue full compliance in every case. This policy will provide guidance to staff regarding the receipt of bylaw complaints, initiation of investigation, priority assessment and the use of appropriate enforcement tools.

Complaint Process

The District of Central Saanich does not have the resources or mandate to proactively review or inspect properties on a regular basis in order to determine whether its various bylaws are being complied with at all times. Given this, the District, like most municipalities, relies primarily on public complaints to identify potential non-compliance. Nonetheless, there is no duty to take enforcement action with respect to every contravention of a bylaw that may occur within the jurisdiction.

All bylaw enforcement complaints, with the exception of those that identify urgent contraventions, must be submitted in writing before they will be considered for investigation. All complaints must include complete contact information for the complainant (name, address and telephone number). The complaint can be in the form of a letter, the Central Saanich [Bylaw Complaint Form](#) or an email.

The District will not respond to anonymous complaints unless potential safety, liability or health issues are raised. Determination will be made by the Bylaw Enforcement Officer and the chief Administrative Officer, and will be otherwise investigated at the discretion of Council, if necessary.

Except as stated elsewhere in this policy, in order to prompt enforcement action by the District, complaints must be received in accordance with the following criteria:

- Two (2) complete written bylaw complaints submitted by unrelated complainants whose properties are located within the District of Central Saanich; or
- One (1) complete written bylaw complaint submitted by a complainant whose property is located within 100 metres of the subject property; or
- One (1) written complaint from Council, a Central Saanich Police Officer or any other Central Saanich staff member.

Complaints classified as High Priority require only one (1) written bylaw complaint.

Complaints alleging that an unauthorized secondary suite or an additional dwelling unit has been constructed must be received from occupants residing within 100m of the subject property.

Bylaw Enforcement Officers may decline to investigate complaints based on the nature of the complaint and alleged violation, the impact of the violation on the community, the impact of the violation on the complainant or other individuals, and in accordance with this policy. In the case of frivolous, retaliatory, repeat and/or multiple complaints about the same issue, each complaint will be dealt with on its own merits and according to this policy. However, Bylaw Enforcement Officers will endeavor to focus on balancing fairly the interests of both the individual making the complaint and the broader community. The District may consider responding to repeated complaints only where the complainant provides new information or raises a new issue.

Information regarding the complainant is kept confidential and is protected under the [Freedom of Information and Protection of Privacy Act](#). However, a complainant may be identified if the issue proceeds to court and the complainant is required to act as a witness for the prosecution.

District of Central Saanich staff are not required to report bylaw violations observed unless it is during regular work hours, within that employees scope of duty and where the violation poses a risk to public health and safety or the environment.

Investigation

In response to a complaint, or acting in the regular course of his or her duties, staff will investigate to determine compliance with District bylaws. The investigation may include a bylaw and file review, contacting the alleged contravener, contacting the complainant, and conducting a site inspection.

If a violation is identified, the contravener will be instructed to take action to resolve the issue immediately or within a specified time period. If further action is required to resolve the infraction, a bylaw file is subsequently created to track the violation, assessment, enforcement and outcome.

While encouraging compliance with District bylaws is important, staff safety is paramount. If a staff member is verbally or physically threatened while administering the bylaws, then no further investigative action shall be carried out until a police officer accompanies the staff member on any site inspections. Authorization requirements to enter a property or building will be followed as per Section 16 of the Community Charter. Tenant rights as specified in the Residential Tenancy Act will be respected during enforcement.

Assessment Criteria

When assessing the priority of the bylaw violation, staff will consider, but are not limited to, matters such as:

- potential risk to public health and/or safety;
- magnitude, nature and duration of the contravention;
- history of non-compliance on the property or by the contravener;
- potential short and long term impact on a structure, the community and the environment;
- potential for setting a precedent;
- resources available to resolve the matter;
- potential costs associated with enforcement action; and,
- likelihood of obtaining the desired results.

Enforcement Priority

To maintain consistency throughout the bylaw enforcement process, the staff members involved will meet as necessary to review file details. The bylaw violation will be assessed in accordance with the following hierarchy of priority levels.

Low Priority

A bylaw violation unlikely to cause health or safety issues or negatively impact the community or the environment

Examples of bylaw violations that may be considered as ***Low Priority*** would be:

1. Minor renovations without a building permit, where there are no concerns relating to health and safety; and the use and building comply with the Land Use Bylaw (*Building Bylaw No. 1470*)
2. Minor encroachment into a setback ([Land Use Bylaw No. 1309](#))
3. Protected tree pruned without permit, where there is no harm done to the tree (*Tree Protection Bylaw No. 1595*)

Medium Priority

Multiple low priority violations or a bylaw violation with potential to cause health and/or safety issues and/or negatively impact the community or the environment

Examples of bylaw violations that may be considered as ***Medium Priority*** would be:

1. Remove or deposit soil without a permit (*Soil Removal and Deposit Bylaw No. 1544*)
2. Noxious weeds or unsightly premises (*Noxious Weeds Bylaw No. 763* or [Land Use Bylaw No. 1309](#))
3. Burning without permit (*Open Burning Bylaw No. 1091*)
4. Secondary suite constructed without a building permit where there are no significant safety issues (*Building Bylaw No. 1470*)
5. Additional unauthorized dwelling unit ([Land Use Bylaw No. 1309](#))

High Priority

Multiple medium priority violations or a bylaw violation likely to cause health and/or safety issues and/or negatively impact the community or the environment

Examples of bylaw violations that may be considered as ***High Priority*** would be:

1. Non-conforming land use, inadequate parking and site development without a Development Permit ([Land Use Bylaw No. 1309](#) and *OCP Bylaw No. 1600*)
2. Unauthorized secondary suite with multiple code violations such as inadequate smoke alarms, fire separations, or egress windows due to alterations without a building permit (*Building Bylaw No. 1470*)
3. Inadequate exiting and/or fire protection due to building alterations without a permit (*Building Bylaw No. 1470*)
4. Cut down tree, that is protected and located in the Erosion District, without permits (*Erosion Control and Tree Cutting Bylaw No. 993* and *Tree Protection Bylaw No. 1595*)

Enforcement Tools

When compliance cannot be achieved through initial enforcement, staff may escalate enforcement by first determining the appropriate tools with which to do so. Details of the various options available to the District are provided below (see also Schedule A).

Stop work order

Where a particular bylaw provides authority, a District official may order the cessation of any work that is proceeding in contravention of a bylaw by posting a Stop Work notice.

Municipal Ticket Information (MTI)

The Municipal Ticket Information (MTI or municipal ticket) can be used for the prosecution of minor local government bylaw matters. The MTI is completed and personally delivered by an enforcement officer to the alleged offender. The alleged offender has the option of admitting the offence and paying the penalty within a specified time period, or disputing the offence and waiting for a court appearance.

No Occupancy Posting

For Building Bylaw violations, a No Occupancy notice may be posted after other attempts to resolve the issues have failed and/or if significant or serious health and safety issues are

suspected. The *owner* of the property on which a No Occupancy notice has been posted, and every other person, shall cease *occupancy* of the *building* or *structure* immediately.

District Solicitor involvement

The District Solicitor may provide the contravener with a warning letter, and/or, if authorized by Council, will initiate court proceedings.

Direct enforcement

Direct enforcement involves carrying out enforcement remedies and adding the cost of doing so to the subject property's taxes. Council approval may be required, depending on the contravention.

Section 57

Under specific circumstances, such as a building bylaw contravention related to permits, inspections or safety, a building inspector may recommend to Council that it consider a resolution to place a notice of the contravention on the title of a property pursuant to Section 57 of the Community Charter.

Remedial Action

Council may impose remedial action requirements in relation to hazardous conditions, declared nuisances, or harm to drainage. A remedial action requirement may be imposed on the owner or lessee of the matter or thing, and/or the owner or occupier of the land on which it is located. A remedial action requirement may require the person to remove or demolish the matter or thing; fill it in, cover it over or alter it; bring it up to a standard specified by bylaw, or otherwise deal with it in accordance with the directions of Council or a person authorized by Council.

Prosecution by Long Form Information

Section 263 of the *Community Charter* authorizes a municipality to proceed with a quasi criminal prosecution of a bylaw offence with a maximum fine of up to \$10,000. Local governments can commence proceedings under the *Offence Act* in B.C. Provincial Court by swearing an information before a court official that sets out the details of the offence. The information must be served on the accused, and once it is served, the offence comes under the jurisdiction of the Provincial Court. However, as provincial Crown Counsel will not prosecute bylaw offences, municipalities shall either hire their own lawyers, or enforcement officers could act as prosecutors. Although long-form prosecutions involve a lengthy Provincial Court process, they are appropriate for major offences if a larger fine is warranted. In addition to the penalty imposed, the court may make a compliance order prohibiting the offender from repeating the offence as well as directing the offender to remedy any harm done. Council approval may be required prior to commencing proceedings.

Consent order

This is an order where legal proceedings have commenced, however, prior to appearing before a judge or master of the court, the parties agree to a Consent Order. Once the order is signed by all parties it is then registered with the court and has the same effect as a court order. Council approval is required prior to filing the initial statement of claim or petition, and may also be required to accept the terms of a consent order.

Injunction proceedings

An injunction is a Supreme Court Order directing a person to do, or not to do, a specified act. Council approval is required prior to seeking an injunction.

Procedure

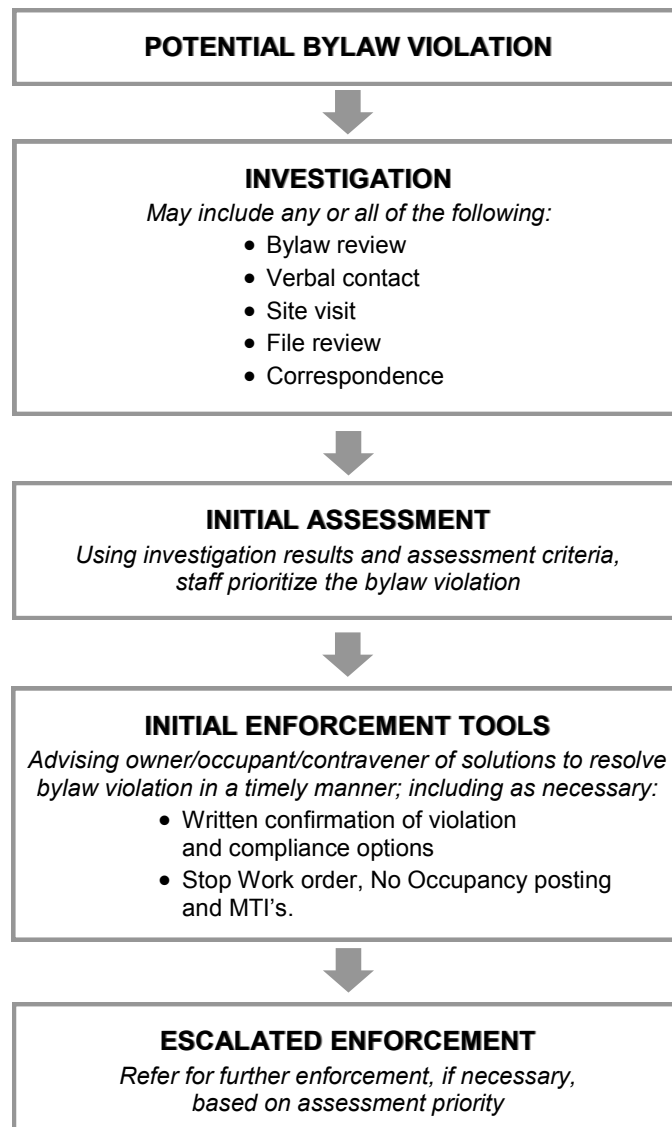
To guide staff through the enforcement procedure, flow charts have been created outlining the possible steps to compliance (Schedule B).

Where illegal or unauthorized activity has not ceased, or where compliance is not achieved through voluntary compliance or initial enforcement, a report will be brought forward to Council. The report will indicate options for further action and may request approval to commence legal proceedings. Council will decide whether to provide funding for legal action, decline to do so, or recommend other actions. Staff, with the assistance of legal counsel, will follow up with Council's motion to initiate legal proceedings. At the end of the proceedings, and the resolution of the bylaw violation, the file will be closed.

TYPICAL ENFORCEMENT MEASURES

BYLAW VIOLATIONS EXAMPLES		Stop Work Order	Municipal Ticket Information (MTI)	No Occupancy Posting	District Solicitor	Direct Enforcement	Notice on Title (Section 57)	Remedial Action	Prosecution by Long Form Information	Consent Order	Injunctive Proceedings
LOW	Minor renovations without a building permit, with no health and safety issues and complies with Land Use Bylaw.										
	Minor encroachment into a setback										
	Protected tree pruned without the required permit where there is no harm done to the tree										
MEDIUM	Remove or deposit soil without the required permit										
	Noxious weeds or unsightly premise										
	Burning without a permit										
	Unauthorized secondary suite without significant safety issues										
	Additional unauthorized dwelling unit										
HIGH	Non-conforming land use, inadequate parking and site development without a Development Permit										
	Secondary suite construction without a building permit where there are multiple code infractions relating to safety										
	Inadequate exiting and/or fire protection in a commercial or industrial building										
	Cut down tree (protected and located in Erosion District)										

BYLAW VIOLATION



LOW PRIORITY

CONFIRM ASSESSMENT

Based on INVESTIGATION, previous ASSESSMENT, and any recent events, staff confirm LOW priority.



WRITTEN NOTIFICATION

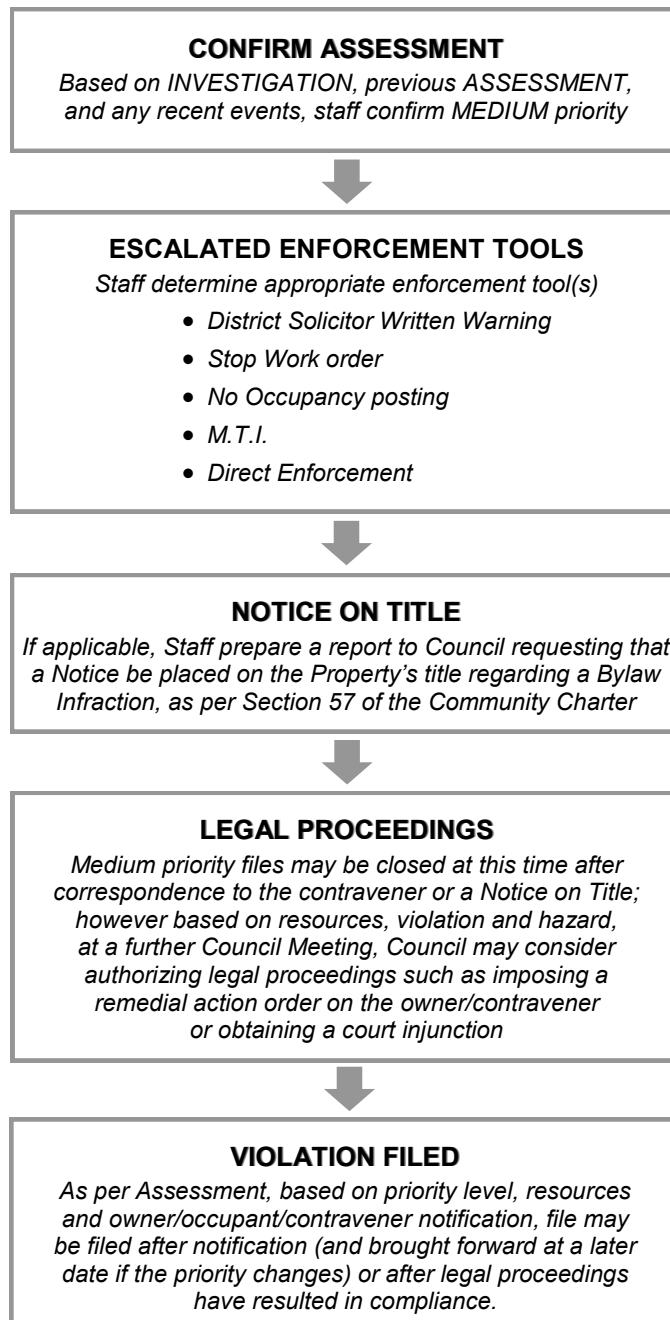
If compliance has not been achieved, staff will again remind owner/occupant/contravener of the requirement to comply with District Bylaws, and advise of possible further action including MTI and Notice on Title if warranted. In the meantime, the District is not authorizing or approving the current violation, nor taking immediate further action.



VIOLATION FILED

As per Assessment, based on priority, District resources and owner/occupant/contravener notification, violation may be filed at this time, but could be brought forward if priority changes.

MEDIUM PRIORITY



HIGH PRIORITY

