



The Corporation of the District of North Vancouver

COUNCIL POLICY

Title	Complaint and Enforcement Policy
Section	

POLICY

It is the policy of Council that a fair and reasonable framework for bylaw enforcement is needed to provide staff with guidance on exercising discretion, and the public with clarity and detail on how and why enforcement decisions are made.

Policy approved on: July 9, 2018, Regular Council

Policy amended on:

PROCEDURE

The following procedure is used to implement this policy:

The District's bylaw enforcement approach is to prioritize public safety and encourage a peaceful law-abiding community by proactively monitoring public lands and responding to complaints regarding alleged violations on private lands within the District of North Vancouver.

1. Information available to the public:

- All current bylaws in accordance with applicable statutory provisions.
- The DNV Complaint & Enforcement Policy.
- Information on the complaints process.
- Information about the bylaw enforcement and appeal process.
- Contact information for the bylaw enforcement department.

2. Role of Council in the enforcement process:

- Enacts bylaws that foster the economic, social, and environmental well-being of the community.
- Approves annual budgets for bylaw enforcement staff, equipment and other resources to meet service level expectations.
- Approves policies that:
 - provide staff with guidance on exercising discretion,
 - establish overall priorities and set clear expectations and standards for bylaw enforcement, and
 - establish standards of conduct for bylaw enforcement staff.

- Individual Council members shall not become directly involved in enforcement actions either publicly or privately, nor shall individual Council members direct enforcement actions against specific residents, groups or businesses, or direct that an enforcement action not occur in a particular circumstance, unless and until the matter is put on the agenda for the entire Council to consider. This shall not preclude individual Council members seeking assurances that bylaw enforcement staff have fairly applied this policy as per the Provision of Information to Council Policy and Consultation with the Municipal Solicitor by Individual Council Member Policy. Nor shall this prevent an individual Council member from referring a complainant to the Chief Bylaw Officer.
- In consideration of a report from bylaw enforcement staff, direct staff and legal counsel to pursue an injunction in the Supreme Court of B.C. to prevent or restrain the contravention of a bylaw, in accordance with the *Community Charter*.
- Consider direct enforcement recommendations from bylaw enforcement staff (Examples: notice on title, remedial action requirements, business license cancellation, and service discontinuance)
- Hear appeals (Examples: business license suspension)

3. Role of bylaw enforcement staff:

The District has a decentralized bylaw enforcement model with enforcement staff in many divisions and departments. Collectively these staff are defined in this policy as “bylaw enforcement staff”, and their role is to:

- Encourage education and awareness of community standards.
- Receive and document complaints.
- Enforce the Districts bylaws in a fair, efficient and reasonable manner.
- Apply discretion in the assessment of complaints and enforcement of bylaws in accordance with this policy.
- Act in accordance with the standards of conduct found in this policy.
- Administer enforcement proceedings (Examples: manage ticket disputes, the adjudication process, appeal process, formal legal remedies, and debt collection).
- Manage communications with complainants and alleged offenders.
- Provide full, clear and accurate information, while recognizing a complainant’s and the alleged offender’s right to confidentiality, and the importance of timely communication.

4. Standards of Conduct for bylaw enforcement staff:

Bylaw enforcement staff maintain awareness of this policy and demonstrate the following attributes:

- Accountability,
- Impartiality,
- integrity and professionalism,
- Uphold community standards,
- Respect diversity, needs, values and aspirations of the public, and
- Respect rights to confidentiality.

5. Receiving Complaints:

- Complaints may be received:
 - in person,
 - over the telephone, or
 - in writing (letters, emails etc.)
- Complainants must provide a location and general description of the potential bylaw violation.
- Complainants must provide their name, address, telephone number or email.

Complaints which do not include the information noted above shall not be deemed a valid complaint. Anonymous complaints will not be acted upon unless the alleged violation is a Priority 1: Safety issue, or a matter which the District proactively enforces (example: public lands).

The Inappropriate, Offensive, Misleading, Harassing, or Threatening Correspondence to Members of Council or Staff Policy, Positive Workplace Environment: Anti-bullying and Harassment Policy and Violence Free Workplace Policy are applicable to bylaw enforcement complaints.

6. Freedom of Information and Protection of Privacy:

Confidentiality is necessary to ensure complainants are not exposed to retaliation or other adverse actions because of the complaint, and to maintain effective investigation techniques. The identity of the complainant and identifying information will not be disclosed publicly or to the alleged offender, except as required by law. Likewise, the details of the District's complaint assessment or enforcement approach will not be disclosed to the complainant.

Situations where a complainant's identity or alleged offender's enforcement history may be disclosed include:

- If required by Court order, warrant or other similar judicial or quasi-judicial process
- If required under the *Freedom of Information and Protection of Privacy Act*, or
- If required as part of the disclosure process in the event of an injunction, prosecution, or direct enforcement proceedings.

If the complainant is the only witness to an alleged violation and the complainant's information is necessary to proceed with enforcement, the complainant will be advised of the extent to which his or her identity needs to be disclosed and the reasons enforcement staff consider the disclosure necessary as part of the enforcement proceedings. Except in Priority 1: Safety situations, the complainant will be provided with the option of consenting to the disclosure or withdrawal of the complaint.

7. Complaint Priority:

- Priority 1: Safety - An alleged bylaw violation which may adversely impact public safety, civil infrastructure, or the environment.

- Priority 2: Significant negative impact to adjacent properties – the alleged bylaw violation is significantly impacting the adjacent properties in a negative manner but does not impose an immediate risk to public safety, civil infrastructure or the environment.
- Priority 3: General nuisance – the alleged bylaw violation may be a matter that is a general neighbourhood concern. These violations tend to be cosmetic in nature and do not affect public safety, civil infrastructure or the environment.

8. Assessing Complaints and Choosing a Method of Enforcement

Most people voluntarily comply with the District's bylaws as they see the collective benefit. However, whether through negligence or deliberate actions, some people violate the District's bylaws, which may result in action from the District to obtain compliance. The District promotes an enforcement philosophy that seeks voluntary compliance. Education usually is the first step, and alleged offenders are usually provided time to comply with the bylaw. Penalties are usually only applied where cooperation and compliance cannot be or is not achieved. However, education and warning notices are not appropriate in all circumstances, and immediate penalties may be applied in the following circumstances:

- The violation is occurring on public property (Examples: parking infractions, improper use of parks and open spaces, and public nuisance)
- Health, safety or security of the public, civil infrastructure, or the environment is being negatively impacted
- Enforcement follows a public education campaign
- Council has prioritized enforcement to address a specific existing or emerging issue
- Where the alleged offender knows or reasonably ought to know his or her conduct contravenes the District's bylaws (Examples: repeat offenders or offences, or when warranted by the circumstances)

While all complaints will be received and recorded, not all complaints will be investigated or acted upon. Assessing complaints involves the bylaw enforcement staff member applying discretion to determine:

- the priority of the complaint in accordance with this policy.
- Whether the matter is within the District's jurisdiction. In cases where the alleged bylaw violation is not within the District's jurisdiction or authority, the bylaw enforcement staff member receiving the complaint may refer the complainant to the governing body having jurisdiction or authority.
- Whether education or a warning notice prior to enforcement is appropriate in accordance with this policy.
- Whether there is sufficient geographic or other connection between the complainant and the location of the alleged violation. (Example: Alleged nuisance or vehicle parking/storage within 100 m of, or on the same cul-de-sac as, the complainant's residence)
- Proportionality – considering whether the potential penalty is proportionate to the gravity of the offence

- Equitability - considering the alleged offender's personal circumstance and ability to comply
- Consistency – bylaw enforcement staff are not required to follow the same approach in every case, but similar circumstances should be treated in a similar way
- frivolous, vexatious, repeat, multiple or minor complaints – While bylaw enforcement staff receive and assess all complaints, a complaint may be:
 - frivolous: without merit, no basis in fact, or does not constitute a bylaw violation.
 - vexatious: is intended as retaliation, to frustrate ongoing enforcement efforts, or originates from a purely private dispute
 - repeat or multiple: repeated complaints from one person or household, or multiple complaints from different people or households, which after assessment staff may decide to respond collectively rather than individually.
 - minor – (Example: Priority 3 general nuisance complaints)

In the above-noted cases bylaw enforcement staff will apply discretion to determine if any enforcement action is warranted. In such cases, enforcement staff will focus on education and may conclude that it is not in the District's interest to pursue enforcement action.

Factors to be considered when choosing a method of enforcement:

- Nature, number and duration of violation
- Whether safety is threatened (Example: Priority 1)
- Whether sufficient evidence is available, or can be reasonably acquired to obtain a conviction
- Whether the violation is highly visible and therefore undermines the respect for law
- Whether property damage may occur as a result
- Whether the alleged offender is seeking to legitimize the violation through an application review process
- Goal to be achieved (Examples: obtain bylaw compliance, mitigate impacts, or penalize the offender)
- Cost of enforcement proceedings

9. Communication with the alleged offender and complainant

Bylaw enforcement staff should provide clear, complete and consistent information to the alleged offender including:

- the violation,
- the enforcement action being taken and why,
- the relevant bylaw provision,
- any options or requirements for complying,
- any important deadlines,
- how to pay fines (if applicable),

- how to appeal the decision, and
- how to contact the District with questions about the enforcement action.

The District's bylaw enforcement resources are prioritized to ensure the timely receipt and assessment of complaints. It is not the District's practice to provide follow-up information to complainants unless the complainant specifically requests information. In such cases the bylaw enforcement staff will endeavor to provide a response (subject to confidentiality requirements) as time permits.