



REGIONAL
DISTRICT
OF NANAIMO

Review of Bylaw Enforcement Policy B3.2

RECOMMENDATIONS

1. That the report titled “Review of Bylaw Enforcement Policy B3.2” dated November 6, 2025, be received for information.
2. That the Electoral Area Services Committee provide recommendations on the proposed policy amendments and that the Board direct staff to amend the Bylaw Enforcement Policy B3.2, accordingly.

BACKGROUND

At the Regional District of Nanaimo (RDN) Board meeting, May 24, 2022, a motion was passed for staff to provide a review of Bylaw Enforcement Policy B3.2. The original Bylaw Enforcement Policy was approved and made effective by the Board on April 27, 2021 (Attachment 1- Bylaw Enforcement Policy B3.2). After several years of implementation and following the purpose of the policy, staff have recently undertaken a review to ensure the policy remains current with evolving bylaw practices and legislation and continues to align with the Ombudsperson best practices for bylaw enforcement.

Managing public expectations around bylaw enforcement activities, especially in the context of limited resources and staffing—is a challenge faced by most local governments, including the RDN. Establishing a clear and accessible bylaw enforcement policy that reflects a progressive and principled approach helps staff navigate these challenges. By making this policy publicly available, the RDN reinforces its commitment to transparency, accountability, and service excellence—fostering greater public trust and confidence in the enforcement process.

Bylaw Enforcement Policy B3.2 Review

The purpose of the policy is to establish procedures for accepting, processing and investigating bylaw complaints and enforcing bylaws in the RDN Electoral Areas. Given that the RDN has over 27 enforceable regulatory bylaws applicable to residents within Electoral Areas, the establishment of the Board Policy has granted Bylaw staff the authority to exercise discretion in accordance with the policy guidelines.

The current policy defines roles and responsibilities, and provides guidance to staff, elected officials and the public to ensure administrative fairness in the enforcement of RDN regulations. The establishment a Bylaw Enforcement Policy that is in line with Ombudsperson best practices and extensively provides coverage for the RDN’s Bylaw Services needs was and continues to be a critical piece to all bylaw work. Staff have engaged in consultation with the Ombudspersons office to obtain feedback and discuss policy revisions (Sept-Oct 2025) which are embedded into the suggested amendments outlined in this report.

As described in the *Office of the Ombudspersons Bylaw Enforcement: Best Practice Guide*, a properly applied enforcement policy should achieve three goals:

1. Result in similar cases being treated in a similar way
2. Provide local government staff with guidance on, and limits to, exercising discretion
3. Provide the public with clarity and detail on how and why enforcement decisions are being made

These goals facilitate a consistent and fair approach to addressing alleged bylaw complaints.

Bylaw staff participated in several collaborative bylaw team meetings, file discussions, and interdepartmental workflow sessions to fully understand the breadth of how bylaw services are delivered within the RDN. Bylaw management is planning for continuous training sessions to educate existing and new bylaw staff to ensure continuous quality improvement. This training has included courses offered by the Office of the Ombudsperson related to administrative and procedural fairness. We are committed to learning from the bylaw complaints we receive, from complainants, and from elected officials within our service areas, to strive to provide high quality bylaw service within the RDN. (Attachment 2- Fairness Facts, The Essentials of Procedural Fairness, Ombudsperson BC).

Bylaw Enforcement Service Levels

The RDN applies health, public, and life safety as the primary threshold for enforcement, ensuring decisions are efficient and legally defensible.

Once a complaint meets this threshold, the service approach emphasizes voluntary compliance through education, guidance, and warnings. Where necessary, enforcement escalates to written orders, Bylaw Notices, compliance agreements, hearings, and legal letters. Certain actions—such as Notices on Title and Remedial Action Requirements—require Board approval, and staff are developing standardized workflows for these processes.

Under Section 57 of the *Community Charter*, the RDN may register a Notice on Title with the LTSA when unresolved building code or bylaw violations pose safety risks (e.g., unpermitted work). This measure informs buyers, lenders, and insurers, affecting property value and financing. Property owners are encouraged to resolve contraventions promptly. To support this, staff have prepared an information bulletin available online and at the Building Department. Staff are now ready to present outstanding and new files requiring Notices on Title to the Board.

The coordinated response to roadside encampments highlights how life safety concerns now go beyond traditional enforcement. Bylaw staff lead a multi-agency working group—including fire, RCMP, provincial ministries, and social services—to address encampments holistically. This shift from reactive to proactive demonstrates a stronger commitment to public safety, service delivery, and community trust across the RDN.

Fairness and Transparency

As part of the policy review, staff created the *Bylaw Compliance Process*—a visual workflow showing how complaints progress from intake to potential Board-authorized legal action. (Attachment 3- Bylaw Compliance Process). This ensures a consistent, fair, and proportionate approach, fostering public trust and reducing perceptions of bias. The Bylaw Manager provides ongoing training to ensure investigations are clear, consistent, and well-documented.

The visual tool is now available on the RDN website to help residents understand bylaw processes. Staff aim to balance complainant confidentiality with fair enforcement, recognizing that strained neighbor relations can create

safety concerns. Training from BC's Ombudsperson Office is improving complaint handling, with timely responses helping prevent escalation and rebuild trust.

Anonymous complaints are discouraged because, while identities remain confidential during investigations, legal proceedings may require disclosure if the complainant becomes a witness. Transparency and fairness remain essential to the process.

Rationale for Discouraging Anonymous Bylaw Complaints

Administrative Fairness and Procedural Integrity

Best practice standards, such as those outlined in the BC Ombudspersons Practices Guide, March 2016, emphasize the importance of administrative fairness in bylaw enforcement. Anonymous complaints can undermine this principle because they:

- Limit the ability of enforcement officers to verify facts or gather additional context.
- There is often not enough evidence provided initially to make well-informed decisions.
- Prevent follow-up with the complainant, which is often necessary to clarify details or provide updates.
- Increase the risk of misuse, such as retaliatory or frivolous complaints.

Transparency and Accountability

The RDN balances community interests with fairness by prioritizing complaints based on severity. While all are considered, anonymous complaints may be deprioritized unless they pose serious health, safety, or environmental risks.

Risk of Harassment or Frivolous Use

Anonymous submissions can sometimes be used to harass neighbours or disrupt community harmony. The RDN's policy explicitly addresses this by noting that "repeat, harassment, retaliation, and frivolous complaints" are subject to scrutiny and may not be pursued.

Community Trust and Engagement

While anonymity can protect complainants, it can also hinder resolution and trust-building. In one case, a complainant reportedly put their house up for sale due to neighbourhood challenges and fear of retribution, underscoring the emotional and social stakes involved. Anonymous complaints may still be investigated under the RDN's policy if they involve serious health, safety, or liability concerns, or are observed by staff or other agencies.

This aligns with best practices from other local governments like the City of Nanaimo.

Discretion in Bylaw Services

The use of discretion in bylaw enforcement policy is not just a procedural necessity—it is a cornerstone of fair, effective, and community-responsive governance. It developed because legislation and policy cannot always cover every scenario. Drawing from the existing policy, discretion must be considered in matters of bylaw enforcement for the following reasons:

Balancing Consistency with Flexibility

The policy emphasizes the need for clear procedures and expectations but also acknowledges that "unique circumstances may require alternative options". This flexibility allows staff to tailor responses based on the severity, context, and potential impact of a violation. Bylaw enforcement not only intends to be consistent but also reasonable and proportionate.

Efficient Use of Resources

Discretion enables staff to prioritize bylaw cases that pose greater risks to health, safety, or liability. For example, in Bylaw Direct Action, staff propose that only cleanups exceeding \$5,000 or deemed contentious be brought to the Board, while minor issues could be resolved directly by staff, this approach streamlines operations and reduces administrative tasks.

Promoting Voluntary Compliance

The policy encourages voluntary compliance as a first step, reserving escalated enforcement for cases where it is truly warranted. This discretionary approach fosters cooperation rather than confrontation, which is especially important in small or closely connected communities like the RDN with several Electoral Areas and bylaws.

Supporting Administrative Fairness

According to the Ombudsperson Best Practices Guide, March 2016, discretion—when applied transparently and fairly—can reduce conflict, build trust, and enhance the public’s perception of local government as responsive and accountable.

Addressing Complex or Sensitive Situations

Discretion is essential when dealing with complaints that may be retaliatory, frivolous, or emotionally charged. As noted in internal discussions, discretion allows staff to assess the credibility and intent behind complaints. It also accounts for people’s unique life experiences, cultures and backgrounds.

In summary, conducting regular policy reviews help ensure that our bylaw complaint process remains fair, transparent, proportionate, up to date and in line with statutory requirements, organizational realities, as well as current best practices. Following the recent policy review and in consultation with the Ombudsperson’s office, staff have identified key areas of the existing policy (below) that necessitate further discussion and consideration for amendments.

Proposed Amendments

Definitions

Discussion with the Ombudsperson’s office recommended including a definition of a ‘bylaw complaint’ to ensure it is clear to the public what constitutes the submission of a bylaw complaint to the Bylaw Services department.

Proposed Amendment: Bylaw Complaint- formal allegation submitted by a resident or agency regarding a potential violation of one of the RDN’s regulatory bylaws.

Direct Enforcement Action

Direct enforcement action empowers RDN staff or agents to enter properties to address violations or hazardous conditions. As outlined in the Bylaw Enforcement Policy, this action is applicable to the *Unsanitary Premises Bylaw* and Hazardous Properties/conditions under the *Community Charter*.

Remedial action requirements are a standalone process under sections 72-80 of the *Community Charter* to create, by Board resolution, a custom-made requirement to address the circumstances of a particular property. It is not a tool to enforce an existing bylaw, which is why a remedial action requirement is distinct from bylaw requirements. For the proposed policy amendment, staff are focusing on the process outlined in the *Unsanitary Premises Bylaw* (not related to remedial action requirements).

Currently, staff invest significant amounts of time working with property owners to achieve voluntary compliance. This often involves multiple site inspections and issuing compliance letters that specify required property clean-

up tasks with deadlines. However, after a noncompliance notice, the next enforcement step is issuing a Bylaw Notice (BN/ticket). Despite fines, progress on clean-up may not occur, as the fine amounts could be used for clean-up or disposal (e.g., landfill fees). Staff have identified a gap between issuing a BN and initiating a Board-authorized clean-up, which may delay action and/or progress.

A more effective enforcement step would be to target specific areas of a property for a clean-up, compelling compliance and helping property owners address issues *incrementally*. (A property does not become unsightly overnight, conditions deteriorate usually over several years). By focusing on incremental improvements and goal setting with reasonable timelines, property owners may find it easier to comply and manage the process without feeling overwhelmed. Additionally, seeing visible progress can be motivating for both the property owners and the community.

Proposed Amendment: Under the existing policy, each enforcement case requires Board approval, which can be time-consuming for staff to prepare and present. Ensuring the fundamental principles of administrative fairness, staff recommend a condensed and streamlined process:

1. Properties with estimated clean-up costs under \$5,000—which are typically minor clean-ups (e.g., garbage removal)—would be addressed directly by staff, avoiding timeline delays bringing several outstanding clean up files to the Board.
2. Properties with an estimated clean-up cost over \$5,000—especially those deemed hazardous or contentious—would still require Board approval before proceeding with a clean-up.

This threshold allows for a clearer distinction between minor and extensive clean-ups, ensuring a more efficient process for the former, while still maintaining oversight and Board direction for more complex and financially significant cases. There is always the ability to exercise discretion, flexibility, and act in good faith as staff work through the process and consider the totality of the circumstances of each file (I.e. Elderly widow with limited support physically unable to clean up their property).

For all cases, staff would coordinate with procurement and finance to ensure accurate cost estimates and proper procedural handling. The initial clean-up costs would be paid by the RDN, with any unpaid amounts being recovered through the property tax roll via the Provincial Surveyor of Taxes.

Communications

Section 11.3 of the existing policy requires that the BEO will contact the complainant on the status of ongoing investigations on at least a bi-monthly basis.

Bimonthly can mean two different things which is ambiguous. It can mean either “once every two months” or “twice a month”. Given the feedback from bylaw staff and previous administrative personnel, it seems that neither interpretation is feasible for regular updates, especially with an increase in the volume of bylaw complaints. It will be helpful to clarify the policy language to specify a more attainable frequency, such as “quarterly,” to ensure clear communication and realistic expectations.

Proposed Amendment: The BEO will contact the complainant on the status of ongoing investigations on a quarterly basis or if a major change has occurred on the file.

Electoral Area Directors will be provided a semi-annual report on bylaw enforcement activity at the Electoral Area Services Committee meetings. Information contained within those updates shall be in accordance with applicable privacy and freedom of information legislation and shall include information on highlights of the reporting period.

Highlights can include the number of files opened in the reporting period, types of files that have been opened, number of complaints received, number of files closed or in-progress, filing of tickets or adjudication; and identification of new complaint related trends if applicable.

Proposed amendment: Staff have planned for reports to be provided quarterly, no longer semi-annually. Staff request to amend section 11.5 to remove semi-annual report and replace with quarterly report.

Housekeeping Amendments

References to the General Manager, Strategic and Community Development. As this position no longer exists at the RDN, staff request to amend the policy to the current reporting position of General Manager, Development and Emergency Services in each of these sections.

Proposed Amendment: Reference GM response for the function.

Sections 9.4, 9.5.1.2, 9.6 and 12.1 refer to Bylaw Offence Notices. Updating the language to Bylaw Notice to match Bylaw Notice Bylaw No. 1786, 2019.

Enforcement Appeals

Bylaw Enforcement Officer Decisions - For discretionary decisions of a BEO, appeals may be considered by the General Manager, Strategic and Community Development. Such requests must be made in writing, outlining reasons for the appeal such as error of fact, omissions, or new evidence and are to be considered in accordance with this Policy.

Bylaw Enforcement Officers have discretion in how they enforce bylaws, and they are encouraged to follow principles of administrative fairness and consistency in enforcement decisions.

Proposed Amendment: Staff propose to remove the word 'discretionary' so that there is an opportunity for an appeal to take place outside of decisions made with discretion. (I.e. No bylaw violations were found by the investigating officer).

Condensed Bylaw Enforcement Policy

A Bylaw Enforcement policy does not have to be complex; it should be clear and simple. To avoid regular administrative amendments, staff are alternatively proposing a condensed version of the policy for consideration that aligns with best practice but simplifies the current policy.

A condensed version simplifies lengthy details and enforcement processes that are not required to remain in the policy. It addresses each current section in the existing policy, however, summarizes the sections. For example, this version would not outline each specific progressive bylaw enforcement process when voluntary compliance is not achieved, it instead briefly outlines what general enforcement procedures may take place.

In a review of other local government's Bylaw Enforcement Policy (Board or Council endorsed), it was discovered that most are much simpler in format and content than the RDN's existing policy. Staff reviewed policies from local governments including the Municipality of North Cowichan, City of Coquitlam, and the District of Saanich. Each had similar policy sections including Scope/Purpose, Priorities, Complaints, Investigation, Enforcement, and Confidentiality, though in a simpler and condensed format.

During consultation, the Ombudsperson's office did not recommend a condensed policy, citing that greater detail would better inform the public and help mitigate potential inquiries. A condensed version may require further

consideration, including additional policy details outlined on the RDN website (i.e. Q & A section). As staff are undergoing a review of the RDN website in the coming months, this would be a timely opportunity to ensure information is most accurately, logically and transparently displayed on the Bylaw Services website pages for the public.

Proposed Policy Amendments

Following the review of Bylaw Enforcement Policy B3.2, staff are seeking input and direction from the Electoral Area Services Committee to proceed with the most effective bylaw policy decisions for RDN residents. Staff have meticulously examined the current policy, proposed amendments, and reviewed feedback from those involved in the bylaw intaking and complaint process as well as voluntary consultation with the Ombudsperson's office. Staff are prepared to refine the existing policy for presentation and endorsement. Alternatively, staff have suggested a condensed version of the policy for discussion and consideration. Staff plan to return to the EASC to finalize this important work for the RDN Bylaw Services department and enhance the service provided to RDN residents.

In summary, Staff are recommending the following amendments to the bylaw enforcement policy:

1. Add definition of 'bylaw complaint' to section 2.0
2. Add new section 9.4.1 new Payment Hearing process to the Bylaw Enforcement Policy B3.2 as an additional progressive enforcement procedure.
3. Add to section 9.5 Direct Enforcement Action, that Board approval is only required when an estimated clean up is over \$5,000. That staff conduct clean ups of properties with an estimated clean up value of under \$5,000. This would include minor clean ups (i.e. Lawn care, vegetation removal, etc.). Whereas clean ups of over \$5,000 proceed to the RDN Board for cleanup consideration.
4. Amend section 11.3 of the Policy to state: The BEO will contact the complainant on the status of ongoing investigations on a quarterly basis or if a major change has occurred on the file.
5. Amend section 11.5 to remove semi-annual report and replace with quarterly report.
6. Amend sections 5.4, 10.2, and 12.2 to remove General Manager, Strategic and Community Development and replace with General Manager, Development and Emergency Services
7. Amend sections 9.4, 9.5.1.2, 9.6 and 12.1 to change Bylaw Offence Notice to Bylaw Notice.
8. Amend section 12.2 to remove 'discretionary' decisions.

FINANCIAL IMPLICATIONS

Currently, there are no financial implications. The proposed policy amendments would not result in a change in service level but a clarity in process associated with receiving, investigating and resolving bylaw enforcement complaints.

STRATEGIC PLAN ALIGNMENT

Planning and Managing for Growth

REVIEWED BY:

- L. Grant, General Manager, Development and Emergency Services
- D. Holmes, Chief Administrative Officer

ATTACHMENTS

1. Attachment 1- Bylaw Enforcement Policy B3.2
2. Attachment 2- Fairness Facts, The Essentials of Procedural Fairness, Ombudsperson BC
3. Attachment 3- Bylaw Compliance Process