



ALBERNI-CLAYOQUOT REGIONAL DISTRICT

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ACRD BYLAW ENFORCEMENT POLICY

Policy Issued by: ACRD Board of Directors
Date Adopted: November 24, 2021
Date(s) Amended:

PREAMBLE:

The Alberni-Clayoquot Regional District (ACRD) does not currently have the capacity to actively review properties in order to seek out bylaw violations. Managing public expectations, with limited resources, can be challenging. The ACRD's policy is to rely on citizen complaints, in written format, as a means of enforcing the bylaws. In order to encourage valid complaints and reduce the opportunity for intimidation and conflict, the ACRD seeks to establish a balance of accountability and confidentiality, among the various parties.

Creating a framework for enforcement will help the ACRD manage public expectations while promoting transparency and accountability. Administrative and procedural fairness require that local governments use their discretion in a fair, reasonable and transparent manner. This policy will guide and provide direction to achieve this.

1. POLICY OBJECTIVES AND GUIDELINES

- 1.1. To establish clear procedures, roles, expectations and standards for ACRD Bylaw Enforcement services.
- 1.2. To promote consistency and certainty, and protect against potentially inconsistent, unfair or arbitrary decision-making.
- 1.3. Bylaw enforcement is at the discretion of the ACRD. As a general rule, unless deemed to be a Class 1 complaint (see section 6), in order for a complaint to be considered, it shall be submitted by a person who is affected by the alleged violation, or who owns, resides upon, or otherwise has an interest in property that is affected by the alleged violation.
- 1.4. The ACRD will handle enforcement matters at a staff level rather than at a Board of Directors (the "Board") level. Staff will keep the affected Directors informed of enforcement actions in their area, and will refer requests for legal proceedings to the full Board for consideration and decision-making.

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- 1.5. The Board has adopted Bylaw Notice Enforcement Bylaw, 2020, Bylaw No. PS1008. This bylaw permits the ACRD to issue notices, including penalties, for violations of the ACRD Zoning Bylaw. Notices will be used to encourage compliance and, in some cases, in conjunction with legal proceedings.
- 1.6. The ACRD will work with property owners to achieve voluntary compliance first. It will not be the policy of the ACRD to issue bylaw notices and/or use legal proceedings for all alleged violations.
- 1.7. Where it is determined that a complaint is subject to the provisions of the ACRD Building Bylaw regulations, a Building Inspector is authorized to proceed with the investigation and enforcement action as appropriate.

2. ROLES AND RESPONSIBILITIES

2.1. The Board:

- 2.1.1. establishes overall priorities for enforcement, approves budgets for enforcement, enacts bylaws and adopts bylaw enforcement policies.
- 2.1.2. approves enforcement action requiring legal proceedings by resolution of the Board at an in-camera meeting.
- 2.1.3. Individual members of the Board remain uninvolved in specific bylaw enforcement decisions until the matter is put on an agenda for the entire Board to consider.
- 2.1.4. Members of the Board can initiate a bylaw complaint, and subsequent investigation, without written submission pursuant to discussion with the General Manager of Planning and Development.

2.2. The Chief Administrative Officer (CAO):

- 2.2.1. makes recommendations to the Board regarding the bylaw enforcement budget and legal proceedings.

2.3. General Manager of Planning and Development:

- 2.3.1. makes recommendations to the Board regarding the bylaw enforcement budget, legal proceedings and bylaw enforcement policies;
- 2.3.2. provides supervision and direction for the Bylaw Enforcement Officers;
- 2.3.3. can authorize bylaw investigations in the absence of a written complaint, exceptions to the required criteria for initiating enforcement action and extensions to deadlines set for bylaw compliance;
- 2.3.4. can authorize a decision to restrict contact with a person who is making repeated complaints about the same issue; and
- 2.3.5. can authorize correspondence with legal counsel.

2.4. Bylaw Enforcement Officers:

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- 2.4.1. receive, record and investigate complaints;
- 2.4.2. seek voluntary compliance through education and discussion;
- 2.4.3. attend on-site as necessary to investigate complaints and carry out enforcement actions;
- 2.4.4. prepare and manage all correspondence associated with bylaw cases, including letters, memos, emails, photos and reports and presentations to the Board;
- 2.4.5. prepare and maintain case files; and
- 2.4.6. prepare, correlate and provide case correspondence to legal counsel.

2.5. Building Inspectors:

- 2.5.1. Where an investigation of a complaint determines the violation is of a building bylaw and/or building code nature, the Building Inspector is authorized to proceed with the investigation and enforcement action as appropriate.

2.6. Planners:

- 2.6.1. receive, review and make recommendations regarding land use and development applications that may originate from bylaw enforcement complaints;
- 2.6.2. provide clarification for Planning related violations such as zoning, official community plans and Provincial regulations, when necessary.

3. COMPLAINT SUBMISSION

- 3.1. Alleged violations of ACRD bylaws are to be reported to the Bylaw Enforcement Officer.
- 3.2. Each complaint shall be in written format and submitted by ACRD Bylaw Complaint Form, letter, email or fax. Exceptions will be considered when the complainant has a language or literacy barrier that prevents them from completing a written complaint.
- 3.3. Complaints must include the following:
 - 3.3.1. name;
 - 3.3.2. address;
 - 3.3.3. contact information including phone number and/or email address;
 - 3.3.4. location/address of alleged violation; and
 - 3.3.5. description of the nature and location of the alleged violation, as well as the impact on the complainant.
- 3.4. To initiate ACRD enforcement, complaints should be submitted in accordance with the following:
 - 3.4.1. two (2) written complaints from unrelated complainants residing or owning property more than 100 m from the subject property;
 - 3.4.2. one (1) written complaint from a complainant who resides or owns property within 100 m of the subject property;
 - 3.4.3. one (1) written or verbal complaint from an outside agency official (ie. Island Health Inspector, RCMP Officer, Provincial Government Official, First Nation

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Official); or

3.4.4. one (1) written complaint for a Class 1 violation (see section 6).

3.5. Exceptions to the criteria outlined in section 3.4 above can be authorized by the General Manager of Planning and Development.

3.6. Anonymous or verbal complaints of alleged violations may not be acted upon unless the alleged violation is determined to be Class 1 (see section 6).

3.7. When a decision to restrict contact with a person making repeat complaints about the same issue has been properly authorized by the General Manager of Planning and Development, enforcement staff:

3.7.1. will clearly communicate to the person, in writing, the nature of the restrictions, the reasons for them and when they may be reconsidered;

3.7.2. will not prevent or limit the person from making complaints about other alleged violations on other properties; and

3.7.3. will not restrict other necessary contact with staff that is unrelated to the person's complaints.

4. OBSERVED BYLAW VIOLATIONS

4.1. The Bylaw Enforcement Officer may initiate an investigation, without receipt of written complaint, pursuant to approval by the General Manager of Planning and Development where:

4.1.1. a bylaw violation is a Class 1 (see section 6) violation;

4.1.2. a bylaw violation is observed by a Bylaw Enforcement Officer, or other ACRD employee, in the course of duties;

4.1.3. a previously closed violation reoccurs and is observed by a Bylaw Enforcement Officer, or other ACRD employee;

4.1.4. a notification or referral is received from an external agency that identifies a bylaw violation associated with a property; or

4.1.5. communication undertaken with the ACRD identifies a bylaw violation (ie. property and zoning inquiries, requests for comfort letters).

5. CONFIDENTIALITY

5.1. Subject to the *Freedom of Information and Protection of Privacy Act (FOIPPA)*, the identity of the complainant, any personal information they provide, and the written complaint itself, will not be disclosed to the alleged violator or any member of the public. Likewise, the response of the alleged violator will not be disclosed to the complainant. Bylaw enforcement case files, actions or plans will not be discussed with the complainant subsequent to the initial submission of a written complaint.

5.2. The anonymity and confidentiality given to complainants and alleged violators under

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this policy cannot be assured in all cases. Particularly if a complaint has been publicly disclosed by the complainant or if an investigation results in court proceedings. A complainant may be requested to sign an affidavit and/or be prepared to stand as a witness should enforcement action proceed to court.

- 5.3. If a request is made to the ACRD for disclosure under *FOIPPA*, it shall be reviewed as per the relevant sections of *FOIPPA*, unless consent is obtained from the person who supplied the information and who would otherwise be provided confidentiality under *FOIPPA* and this policy. The ACRD, however, is subject to orders issued by the Information and Privacy Commissioner under *FOIPPA* and will not necessarily appeal an order to disclose.

6. CLASSIFICATION OF COMPLAINTS

- 6.1. Upon receipt of a bylaw complaint, all bylaw violations will be classified according to nature of complaint and date the complaint was received.
 - 6.1.1. Class 1 Violations involve public health and safety risks, significant adverse environmental impacts and/or harm to ACRD infrastructure. Matters are typically those which, if not addressed in a timely fashion, could result in irreversible impacts. Class 1 violations are considered paramount and receive first priority for enforcement.
 - 6.1.2. Class 2 Violations do not pose an immediate hazard to persons or property and typically do not involve significant environmental impacts. Investigation of Class 2 violations will be prioritized and enforcement action initiated subject to date received, available resources, other priorities and budget limitations.

7. ENFORCEMENT INVESTIGATION

- 7.1. Bylaw enforcement staff will thoroughly document investigations and any resulting decisions.
- 7.2. Bylaw enforcement staff will conduct site visits to private properties in accordance with the ACRD Zoning Bylaw, and other regulatory bylaws.
- 7.3. Enforcement action and decisions will be proportional, equitable and consistent. These principles will be implemented as follows:
 - 7.3.1. action will be proportional to the nature of the violation;
 - 7.3.2. action will be equitable – applied in a way that is just in light of a person’s circumstances; and
 - 7.3.3. action will be consistent – the ACRD will strive to follow the same approach to similar complaints.

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8. OTHER JURISDICTIONAL COMPLAINTS

- 8.1. Complaints that are not related to ACRD bylaws will not be investigated by ACRD Bylaw enforcement staff and no case file will be opened. Staff will make best efforts to advise complainants of the applicable regulatory agency that may be able to assist with their complaint, and provide contact information when possible.
- 8.2. Additionally, for serious complaints related to health, safety and adverse impacts to the environment, Bylaw Enforcement staff will make the applicable regulatory agency aware of the issue for their information and follow-up.