



Town of Qualicum Beach

Policy Manual

Subject: Administration - General - Bylaw Complaint Procedure

Policy Number: 3000-19

Town of Qualicum Beach bylaws are in place to develop and maintain a safe and liveable environment for all residents. The goal of Bylaw Services is to attain voluntary compliance with Town bylaws without having to carry out enforcement proceedings.

Purpose

The purpose of this Policy is to provide guidance to staff on the oversight of Town bylaws, the receipt of complaints, initiation of investigation and general enforcement proceedings related to contraventions of municipal bylaws.

The Town of Qualicum Beach has no duty to take enforcement action with respect to every contravention of a bylaw that may occur within its jurisdiction. The Town will use discretion on a case-by-case basis to evaluate contraventions, and take reasonable steps to investigate contraventions in accordance with this policy.

Policy

Complaints normally arise where persons do not comply with municipal bylaws and non-compliance adversely affects another party. The Town of Qualicum Beach does not have the resources to actively ensure that its various regulatory bylaws are being complied with at all times.

Therefore, it is the policy of the Town of Qualicum Beach to rely primarily, but not exclusively, on citizen complaints as a means of enforcing these bylaws. In order to encourage valid complaints and to reduce the opportunity for intimidation and conflict, the Town seeks to establish a balance of accountability and confidentiality among various parties to the bylaw enforcement process.

The following policies shall therefore apply regarding bylaw enforcement:

1. Complaints

Valid complaint - a complaint that describes the location and general nature of a potential bylaw contravention, which includes the complainants name, address and telephone number, and which is not a vexatious complaint.

Approved:

Amended:

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Vexatious complaint - a complaint that is made for retaliatory or bad faith purposes, or otherwise forms part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process.

2. Investigation

- a) In order to be considered, a complaint with respect to an alleged contravention of a municipal bylaw must be in writing (standard mail, email, fax, or hand delivered) and shall contain the name, address and phone number of the complainant along with a description of the nature and specific location of the alleged infraction(s).
- b) Bylaw Enforcement is at the discretion of the Town. As a general rule, in order to be considered, a bylaw complaint shall be submitted by a person who is affected by the alleged infraction, or who owns, resides upon, or otherwise has an interest in property that is affected by the alleged infraction.
- c) During the course of their duties, Bylaw Enforcement Officers may seek out bylaw infractions for issues of public health and/or safety or other bylaw violations.
- d) Bylaw Officers will not normally respond to anonymous complaints however, a Bylaw Officer may respond to anonymous complaints when the Bylaw Officer believes that failure to act on the complaint may adversely affect the environment or the health, safety or security of the public or may result in any liability being incurred by the Town of Qualicum Beach.
- e) At the discretion of the Bylaw Enforcement Officer, noise related complaints such as barking dogs, loud music, noisy parties etc. will only be investigated upon receipt of two separate complaints registered by two or more residents/owners who reside in or own two separate dwellings within 100 meters of the property.
- f) In responding to complaints, the highest priority will be given to matters related to public health and safety or matters that may result in liability for the Town.

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- g) Priority on routine matters will be determined on the basis of the order received and/or the efficiency to be gained through investigating several complaints at once.
- h) The Town's bylaw enforcement resources are prioritized to ensure the timely receipt and investigation of complaints. It is not the Town's practice to provide follow-up information to complainants in all matters however, staff will respond to specific requests for information, subject to confidentiality requirements, as time permits.

3. General Procedures

The Town's response to valid complaints is generally prioritized as follows:

Priority #1: Health and/or Safety – All violations dealing with immediate health and/or safety issues whether complaint driven or observed during routine patrols. The alleged bylaw violation may adversely impact the environment or public safety. These violations will be investigated and enforced as soon as possible given the availability of staff and other resources. Prior warnings or education may not be appropriate or practical.

Priority #2: Significant negative impact to adjacent properties – The alleged bylaw violation is significantly impacting adjacent properties in a negative manner but does not pose an immediate risk to the environment or public safety. Generally, enforcement efforts are directed at seeking voluntary compliance without ticketing and staff will consider whether education is sufficient to prevent ongoing contraventions. Staff will often issue a warning and provide a short timeline for compliance before ticketing. However, staff may engage in proactive (i.e. non-complaint based) investigations and/or proceed directly to ticketing in response to repeat offences and offenders, or where circumstances otherwise warrant.

**Priority #3:
General Nuisance Complaints & Town Patrols**

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General Nuisances – 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 the environment or public safety. The Town’s investigation and enforcement in these matters are initiated in response to complaints. Staff receiving a complaint will use discretion to determine whether there is sufficient geographic or other connection between the complainant and the location of the alleged violation to constitute a valid complaint. Investigating staff will focus on education and will provide opportunities to bring the property or situation into compliance that are appropriate in the circumstances. If a confirmed violation is minor in nature and/or if it appears the complaint may be a vexatious complaint or is part of a larger neighbourhood conflict, staff may conclude it is not in the Town’s or communities best interest to pursue the matter.

Town Patrols – Patrols are conducted throughout the Town when time permits after priorities #1 thru #3. These patrols can either be by vehicle, foot or bicycle. Areas patrolled include the entire Town, trails, parks and beach areas. These patrols are subject to change depending on the time of year, call volume & type, complaints received that require follow-up investigations and other unforeseen circumstances. As a general guideline. Town patrols are conducted with the following priorities;

- Parking & Traffic Patrols – priority # 1 except from March 1-April 30th each year.
- Beach Patrols – Mar. 1-April 30th each year to coincide with the annual Brant migration period.
- Follow Up Investigations – unsightly, noise, animal, parking etc.
- Park & Trail Patrols – majority of patrols are to address animal control issues.
- Animal Control Patrols – Main beach area during June 15-September 15 each year

4. Confidentiality

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The identity of the complainant is to be considered confidential and will not be disclosed to anyone for any purpose, except as required by law, and in accordance with the following provisions:

- a. The complainant's identity shall not be disclosed to the person under investigation or any member of the public;
- b. A response of a person under investigation may not be disclosed to the complainant. Bylaw enforcement files may not necessarily be discussed with a complainant subsequent to the initial submission of a complaint;
- c. Where a person submits a request pursuant to the Freedom of Information and Protection of Privacy Act for disclosure of personal information contained in a bylaw enforcement file, it shall be the Town's policy to refuse disclosure under the applicable sections of the Freedom of Information and Protection of Privacy Act, unless consent is obtained by the person who supplied the information;
- d. Despite the forgoing, the Town shall not guarantee the anonymity and confidentiality of complainants and may disclose personal information in bylaw files in the following circumstances:
 - i. If the complaint has been publicly disclosed by the complainant;
 - ii. If the investigation results in enforcement proceedings;
 - iii. If disclosure is required pursuant to the provisions of the Freedom of Information and Protection of Privacy Act;
 - iv. If an order for disclosure is issued by the Information and Privacy Commissioner under the Freedom of Information and Protection of Privacy Act;
 - v. As otherwise required by law.

5. Enforcement

- a. The Town's primary enforcement objective shall be to obtain voluntary compliance.

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- b. If the Bylaw Enforcement Officer determines that there is a bylaw contravention, the Officer will advise the person in contravention of the bylaw and will request that the person cease the contravention.
- c. Bylaw Services will normally provide an opportunity for a person to comply with the bylaw before taking further action. The Bylaw Enforcement Officer may specify a deadline for when compliance must be achieved. Bylaw services may also pursue alternate dispute resolution processes such as mediation or negotiation to achieve voluntary compliance.
- d. In determining whether or not to commence enforcement proceedings, the Town may consider one or more of the following:
 - i. The scale, nature, and duration of the contravention;
 - ii. The amount of time that has elapsed since the contravention occurred;
 - iii. The impact of the contravention on the community;
 - iv. The resources available to resolve the matter;
 - v. The costs associated with enforcement action;
 - vi. The probability of a successful outcome;
 - vii. The policy implications of the enforcement action and the potential for precedents;
 - viii. Whether public safety is at risk;
 - ix. Whether enforcement may be a deterrent in future cases.
- e. Bylaw Services may or may not commence with enforcement proceedings including ticketing, legal action or other options based on Town bylaws, policies and procedures.

Responsibility Bylaw Enforcement Officer
Director of Planning

References *Freedom of Information and Privacy Act*

Distribution Council
Management
Bylaw Enforcement Officer

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