

Regional Board Policy

BYLAW COMPLIANCE POLICY

Category: Bylaw Enforcement	Number: BP# 12-2021	Replaces: New Policy
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Office of Primary Responsibility: Bylaw Enforcement		
Date Adopted: October 14, 2021	Board Resolution Number:	Date to be Reviewed: “
Manner Issued: Provided to all bylaw enforcement personnel and Department Heads.		

PURPOSE:

The objective of the Bylaw Compliance Policy is to implement a consistent and transparent approach for obtaining compliance with Regional District of Central Okanagan bylaws. The policy will guide RDCO staff in the decision-making and application of procedural fairness for compliance and enforcement matters.

POLICY:

Definitions:

Board means the duly elected and appointed officials of the Board of Directors of the Regional District of Central Okanagan.

Calls for Service are assignments or complaints that are distributed to Bylaw Enforcement Officers for investigation and other services to their community within the Regional District.

Chief Bylaw Enforcement Officer means the person designated and appointed by the Regional District of Central Okanagan Board to oversee the Bylaw Services department and be accountable for the administration, interpretation and enforcement of local bylaws, regulations and policies including those of the *Community Charter, and Local Government Act*.

Bylaw Enforcement Officer means any person designated and appointed by the Regional District of Central Okanagan Board and is responsible for investigating and enforcing local bylaws, the *Community Charter*, and *Local Government Act*, and includes any other employee, servant, agent, or contractor appointed by the Board.

Department Head(s) means a person or group of persons employed by the Regional District having executive (administrative or supervisory) authority.

Employee(s) means persons employed by the Regional District, including but not limited to regular, temporary and contract employees, and to persons representing or acting on behalf of the Regional District (including but not limited to contractors, volunteers, and students).

Regional District means the Regional District of Central Okanagan.

Screening Officer means the person(s) identified by the Regional District and appointed by the Board to perform the powers, duties and functions as set out in the Local Government Bylaw Notice Enforcement Act.

Southern Interior Bylaw Notice Adjudication Registry is an agreement among local governments, including the Regional District of Central Okanagan that allows for disputes of Bylaw Offences Notices (BONs) by a provincially appointed adjudicator.

Strata Council means the elected executive body for a strata corporation who act as the managing body of the corporation and operates under the Strata Property Act to enforce regulations bylaws and rules by majority vote of the owners.

POLICY STATEMENTS:

ADMINISTRATION

1. The RDCO Department Head(s) and/or designates establish and maintain bylaws to be enforced by Bylaw Enforcement Officers.

GOAL

2. The Regional District's goal is to achieve voluntary compliance of bylaws through a progressive approach (see Appendix A) including education, communication, and enforcement.

SCOPE

3. This Policy applies to bylaw compliance and enforcement actions where the Regional District has a regulatory responsibility under provincial and municipal law including, but not limited to:
 - a. Local Government Act,
 - b. Community Charter,
 - c. Local Government Bylaw Notice Enforcement Act,
 - d. Offence Act; and
 - e. RDCO Bylaws as amended

CALL FOR SERVICE

4. A call for service to investigate a bylaw complaint of an alleged violation must be received in writing by letter, email or on-line. If by phone or in person the complaint will be documented, entered into the reporting system, and assigned. All calls for service must include the following:
 - a. the name, address, and contact information of the complainant.
 - b. the address or, if not available, general location of the violation; and
 - c. details of the alleged bylaw violation, including the duration of violation, if known and/or applicable.
5. Calls for Service received by the Regional District will be recorded, assessed for clarity, and assigned a priority category, using one or more of the following criteria:
 - a. Imminent risk to environmental or public health and safety.
 - b. Magnitude, nature, and duration of the contravention.
 - c. History of non-compliance on the property or alleged offence.
 - d. Potential impact on the community, environment, or structure.
 - e. Legal precedents and statutory timeframes.
 - f. Sufficient evidence to prove non-compliance.
 - g. Reasonable use of Regional District Resources
6. Calls for Service will be responded to in priority order as follows:
 - a. High Priority: Contraventions(s) likely or known to cause serious environmental or public health and safety issues,
 - b. Medium Priority: Contravention(s) which may cause significant impact to property however does not pose a threat to health and safety issues; and
 - c. Low Priority: Contravention(s) are a general nuisance in a neighbourhood unlikely to cause health and safety issues.
7. In accordance with the *Freedom of Information and Protection of Privacy Act* Section 15.1 (d) and 22.1, complainant information is retained in confidence and will not be released unless required by court proceedings.

COMPLIANCE AND ENFORCEMENT

The Regional District will ensure conformity with regulatory requirements and ensure that all enforcement actions are taken to encourage compliance with all bylaws, regulations and legislative acts. Bylaw Enforcement Officers will investigate calls for service in a consistent, compassionate, competent, and transparent manner to ensure good health, safety, and livability of people and property.

8. Calls for Service will require an investigation to determine if a violation has occurred. This may involve a combination of the following activities:
 - a. a review of the bylaw,
 - b. a review of property history and complaints,
 - c. contacting the complainant to obtain a statement or more details,
 - d. contacting the alleged bylaw offender to advise of the complaint and arrange a time to meet, and
 - e. conducting a site inspection.

9. Upon completion of an investigation and a violation be identified, the investigation will follow the Progressive Bylaw Enforcement Process according to Appendix A of this Policy.
10. The Bylaw Enforcement Officer(s) is to ensure that all Calls for Service are thoroughly investigated and may close a file at anytime prior to or during the Progressive Enforcement Process using one or more of the following options:
 - a. Unfounded / No Further Action Required,
 - b. Referral to another Agency/Government for investigation,
 - c. Verbal or Written Warning / Compliance Obtained,
 - d. Concluded by Charge / Compliance Obtained.

EXCLUSIONS

11. When a Call for Service arises in a Strata or similar titled building or lands, all concerns must be taken up with the respective council or property management company for investigation and enforcement.

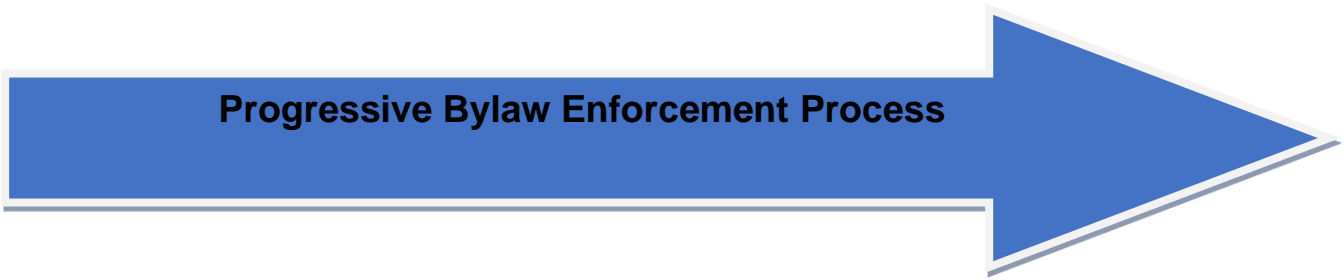
RELATED POLICIES, PROCEDURES, AGREEMENTS AND/OR BYLAWS:

- Progressive Bylaw Enforcement Process, Appendix A
- Bylaw Offence Notice Disputes – Procedures and Guidelines, Appendix B.

***** END OF POLICY *****

<u>Policy No.</u>	<u>Date Adopted</u>	<u>Date Reviewed</u>	<u>Amended</u> <u>(Y/N)</u>	<u>Date Reissued</u>	<u>Authority</u> <u>(Resolution</u> <u>#)</u>

Appendix A



Staff			Management / Legal Involvement			Board	
Call for Service	1st/2nd Contact (BON)	3rd/4th Contact (BON)	Charge	Charge	Court Ordered Compliance	Remedial action taken by RDCO	Appeals to Supreme Court Judge
Call for Service received Referred to applicable Bylaw Enforcement Officer for prioritization and investigation.	Attend address of complaint Confirm violation Provide education and guidance Verbal or Written Warning Non-compliance - issue Bylaw Offence Notice (BON)	Non-compliance issue 2 nd Bylaw Offence Notice (BON) Offender(s) may enter a Compliance Agreement by consent of the Screening Officer	Municipal Ticket Information (MTI) (max. fine \$1,000) Direct Enforcement	Long Form Information (max. fine \$10,000)	Court Order to comply. Injunction – obtained to require or order a person to cease from doing a specific action	Board Report Required Remedial Action (Sec. 72/73 Charter)	Board Report Required. Appeals for serious bylaw violations



= Proceed



= Enforcement Action



= Stop/Do not proceed without direction from Supervisor/Management

Appendix B



Bylaw Offence Notice Disputes Procedures and Guidelines October 5, 2021

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Overview

The Southern Interior Bylaw Notice Dispute Adjudication Registry is a joint initiative between 13 local municipalities. The City of Kelowna manages the Bylaw Adjudication Calendar on behalf of the: City of Enderby, City of Penticton, City of Vernon, City of West Kelowna, District of Coldstream, District of Lake Country, District of Peachland, District of Summerland, Regional District of Central Okanagan, Regional District of Okanagan Similkameen, Town of Oliver and most recently the Regional District of North Okanagan.

The bylaw adjudication system allows local governments to manage most bylaw violations at the local level rather than through the provincial court system. Residents who receive a ticket will have the opportunity to dispute violations out of court via an independent adjudicator who will hear all disputes.

All Regional District of Central Okanagan bylaws are included in the Bylaw Notice Dispute Adjudication Program except those involving aggressive and dangerous dog incidents, which are often more complex and require a higher burden of proof and often result in stricter measures of control, such as that provided through the court system.

The adjudication and screening procedures and guidelines establishes a process for the receipt, response, action and tracking of RDCO Bylaw Offence Notice disputes. This administrative process ensures that correspondence intended for the RDCO staff, disputant, City of Kelowna Bylaw Coordinator, and the adjudicator is reviewed for appropriate action and circulated to all parties in a consistent and timely manner.

Why is this important?

The process assists the RDCO in meeting the following goals and business needs:

- Improve Customer Service to the public:
 - Identify dispute requests that requires an action
 - Ensure that requests from the public are handled in a timely manner
 - Ensure that requests from the public are handled consistently
 - Ensure that effective communication is maintained with requesters
- Improve coordination between RDCO staff, City of Kelowna Dispute Coordinator, and the Adjudicator:
 - Share communication with other parties as needed
 - Ensure that requests from the public are transferred to other parties according to correct protocol
 - Assist in ensuring consistent response / message

- Reduce risk to the RDCO:
 - Track our actions and responses
 - Measure timeline performance
 - Identify repeat requestors and related policy

Scope

The following is included in the scope of the guidelines:

- Bylaw Offence Notice dispute requests received in person, by fax or email
- Screening reports
- Compliance agreements
- Freedom of Information considerations
- Adjudication procedures
- Paying a bylaw notice fine
- Records Management

The following is NOT included in the scope of the guidelines:

- Complaints made to the Ombudsperson
- Lost or not received Bylaw Offence Notices

Procedures

Receiving Disputes

To dispute a Bylaw Notice, the disputant completes the dispute/request for adjudication section on the back of the ticket and submits it to the RDCO in person, by mail or e-mail within 14 days of issuance.

In person/By mail: Regional District of Central Okanagan, 1450 KLO Road, Kelowna, B.C. V1W 3Z4

By email: info@rdco.com

Screening

Screening Steps:

- Dispute notice is received
- Officer statement is completed and submitted to the Screening Officer
- Screening Officer contacts the disputant to determine reason for dispute
- Screening Officer completes screening report

- Screening Officer determines if ticket upheld or dismissed, requires compliance agreement or adjudication

Dispute Notice Received

After a Bylaw Notice is disputed, the issuing officer sends a report of the incident to the Screening Officer, who will then contact the person who made the dispute (disputant) to present their side of the incident.

There will be times when the Disputant does not respond regarding their reason for dispute (give a reasonable time of no more than 7 days). The Bylaw Officer's statement is required to go forward with the screening report.

It is very helpful to get the disputant's email address as the main method of communication and should always be requested.

Include in email or letter:

- [Sample email template link](#)
- "What is Adjudication" info sheet
- Include an expected response date
- Include copy of ticket

Officer Statement

Officer statement is completed with relevant evidence attached and submitted to the screening officer.

Screening Report

The Screening Officer will review the Bylaw Notice and the circumstances surrounding its issue and either revoke or uphold the notice. **If the Screening Officer upholds the Bylaw Notice, they may offer one of the following two options to the disputant:**

1. The disputant may be offered the opportunity to acknowledge that they violated a bylaw and agree to remedy the infraction immediately or by a set date in the future. The RDCO may reduce or waive the fine option once the infraction has been remedied. This scenario is a possibility for infractions that are authorized by the Regional Board to allow for a compliance agreement.
2. If no option is available for a compliance agreement, the disputant may choose to either pay the notice or request the notice be forwarded to an adjudicator.

The screening officer is authorized to cancel a Bylaw Notice where one or more of the following reasons exist and a compliance agreement is not appropriate or available:

1. A jurisdictional issue arises that cannot be addressed by the adjudicator, i.e., identity cannot be proven (example, the Bylaw Notice was issued to the wrong person)

2. An exception specified in the Bylaw or related enactment is made out.
3. There is poor likelihood of a success for adjudication, for example:
 - a. The evidence is inadequate to show a contravention.
 - b. The Officer relied on incorrect information in issuing the Notice.
 - c. The Notice was not completed properly.
 - d. The Bylaw provision is unenforceable or poorly worded.
4. The contravention was necessary for the prevention of health and safety, for example, the contravention was the result of a health emergency.
5. The Notice is one of several Notices arising out of the same incident, in which case the screening officer may cancel all but the most appropriate Notice.
6. It is not in the public interest to proceed to adjudication for one of the following reasons:
 - a. The person who received the Notice was permitted or entitled to take the action, but the issuing officer was not aware of this entitlement or permit.
 - b. The person receiving the Notice was undergoing a personal tragedy at the time of contravention such that it is not in the public interest to proceed.
 - c. The Bylaw has changed since the Notice was issued; and now authorizes the contravention
7. The person exercised due diligence in their efforts to comply with the Bylaw, or where they under the mistaken belief that they did everything reasonable and prudent to prevent from breaking the law.

The Screening Report

Screening report template location:

<H:\Bylaw Enforcement\4050-Adjudication\Forms and Templates\Screening Report Template-BLANK.docx>

There will be times when the Disputant does not respond regarding their reason for dispute (give a reasonable time of no more than 7 days). You must have the Bylaw Officer's statement to go forward with the screening report.

Complete all boxes and requested information on the Screening Report:

- It is very helpful to get an email address from the disputant and should always be requested.

- **Issuing Officer Response**, summarize or note to refer to the Officer's statement that is attached to the screening report. This is best so there is no room for a different interpretation. The same can be done for **Alleged Offenders Reason for Dispute**.
- Refer to front & back of the ticket for details on Violation amount, adjudication fee box and Total Owing boxes.
- Run a spell check. Double check dates and personal information to ensure all is accurate. Print off a copy and sign it as the Screening Officer.
- Log the dispute

Compliance Agreement

Compliance Agreement Template

<H:\Bylaw Enforcement\4050-Adjudication\Forms and Templates\Compliance Agreement.docx>

Compliance agreements can be initiated by the Chief Bylaw Officer or based on the screening report, a disputant may decide to enter into a compliance agreement.

- If the disputant wishes to enter into a compliance agreement and the Chief Bylaw Officer agrees, then the officer will send the Manager of Protective Services an email with their file number, name of owner, ticket number and what conditions should be included.
- If an officer requests a Compliance Agreement for a ticket that has not been disputed, then the Chief Bylaw Officer will open a new file under Adjudication/Compliance. If it is the result of a dispute the coordinator will have already opened a file as per the dispute process.
- Chief Bylaw Officer will draw up agreement and word the agreement in an appropriate way.
- Once drafted the Chief Bylaw Officer will provide it to the Bylaw Officer to ensure it dictates the conditions correctly. Once it is approved by the Officer; the Chief Bylaw Officer will sign as the Screening Officer and date.
- The Bylaw Coordinator will then email it to the ticket holder giving them 7 days.
- Non-payment within the 7-day period. An email can be sent extending an additional 48 hours. Advise that should the agreement and payment not be received then an adjudication hearing date will be set (providing they originally disputed the ticket) or further enforcement may/can be forthcoming. If they did not dispute the ticket and it was originally a request from the Officer advise that officer, the signed agreement, and payment was not received. The officer will then follow up as they choose which could mean further enforcement.
- Once agreement and payment are received Adjudication/Compliance file can be closed. Be sure to attach a copy of the signed agreement to the Service Request and confirm payment with finance. Officer involved will then note that file is closed as well.

- A file should be opened yearly to track the compliance agreements. They will follow the retention schedule as dictated by the RDCO Records Management System.

Adjudication

In situations where the Screening Officer is unsuccessful in resolving the dispute, a Bylaw Adjudication Hearing may be requested. **The function of the Adjudicator** is to confirm whether the offence took place. The Adjudicator cannot cancel a ticket due to a technicality and has no discretion to reduce or waive the fine amount. If the Bylaw Notice is confirmed, the fine amount noted on the face of the Bylaw Notice is due and payable forthwith to the municipality. In addition, a fee of \$25.00 is added over and above the fine amount of the Bylaw Notice to offset the Adjudication cost. If the notice is quashed, no fees or penalties need to be paid. The decision of the Adjudicator is final, and the Act does not allow for appeals.

The hearing will be conducted at Kelowna City Hall or in alternate locations on occasion. The disputant and Bylaw Officer aren't required to personally appear. Representation for the disputant may be made in writing or over the phone, and documentation from the municipality may be presented in support of the notice.

Independent adjudicators determine whether a bylaw infraction occurred. If the adjudicator determines that the infraction occurred, the full penalty will be applied as well as an adjudication fee of \$25. If the adjudicator determines that no bylaw violation has occurred, no fine or adjudication fee will be applied. The adjudicator doesn't have the authority to modify the offence or penalty.

Adjudication Hearings are held monthly with one evening session each quarter, yearly schedule, and locations to be agreed upon by all participating jurisdictions.

The Screening Officer completes the screening report and compiles the disclosure package to send to City of Kelowna Dispute Coordinator.

Disclosure Package

The Screening Officer compiles and scans all files into one document for the disclosure package and sends a request for adjudication to:

- City of Kelowna Dispute Coordinator, lballan@kelowna.ca
- ***A redacted copy is mailed or emailed to the disputant.
- Send an email to the Dispute Coordinator lballan@kelowna.ca confirming the disputant has received the disclosure package.
- Note - the package may be forwarded to the Adjudicator by the Dispute Coordinator if requested

Documents to include in the Disclosure Package:

- screening report

- copy of the ticket
- copy of the dispute notice
- disputant statement
- officer statement
- copies of the bylaw with interpretations
- copy of the violation amount
- any other relevant document such as witness statement, photographs

*****Personal info should not be given to the disputant ever.** Redact personal information such as names, emails, and phone numbers. [RDCO FOI Officer](#), Sandi Horning, can assist with review and redacting of relevant information before sending to the disputant.

The Dispute Coordinator receives the file from a Screening Officer from the participating jurisdiction; the file can be forwarded by mail or electronically. Adjudication cannot proceed until the notice has been screened by a Screening Officer; the Dispute Coordinator only receives files from a Screening Officer, not from the Disputant. The Dispute Coordinator:

1. Confirms that the file is complete and requests additional information if necessary.
2. Liaises with the Adjudicator to set dates for the Adjudication Registry and then enters these dates into the relevant data base system.
3. Informs the Disputant of the available dates and agrees on the date and time.
4. Prepares a Notice of Adjudication to be sent to the Disputant, and to the participating jurisdiction concerned, which confirms the date and time of the Adjudication Hearing along with the Disputants' preferred method of participation: in person, by phone, through submission of documentation prior to the date of adjudication, or through any other method of participation authorized in the participating jurisdiction's relevant bylaws.
5. Coordinates with participating jurisdictions and City of Kelowna Departments, as necessary to prepare for the Adjudication Registry. This includes preparing an agenda for the scheduled date of the Adjudication Registry. The agenda includes time, notice number, name of Disputant, method of participation by Disputant, and municipal authority issuing the notice.

The Dispute Coordinator will notify the following City of Kelowna departments of the forthcoming adjudication dates:

- Finance-Cashier and Accounting (notices issued by other participating jurisdictions may be paid at the City of Kelowna only on the day of the Adjudication Registry).
- Clerks Office (to set up Council Chambers for the Adjudication Registry).
- Information Technology (if required to equip with computers).
- Security

- Bylaw Supervisor
- The municipal authority issuing the notice, if other than the City of Kelowna
- City Hall Receptionist
- City Clerk
- Director of Corporate Services

If Adjudication is to be set up at a participating jurisdiction other than City of Kelowna, the host Screening Officer to provide hearing location and arrange Information Technology, as required for location.

6. Maintains an updated file and has this file available, as requested for the Adjudicator. This file, which must be obtained from the participating jurisdiction involved, includes the following documents:
 - The report prepared by the Screening Officer
 - The report prepared by the Bylaw Officer
 - Any additional information detailing the rationale for not dismissing the notice.
 - A copy of the Notice of Adjudication.
 - A copy of the Bylaw Notice
 - A printed quote of the bylaw section under which the notice was issued.
7. Following the Adjudication Hearing, returns the file to the originating participating jurisdiction with the outcome of the Hearing noted and/or payment received.
8. If a Notice is dismissed at the Adjudication Registry, no further action is required.
9. If a Notice is upheld at the Adjudication Registry, **the originating participating jurisdiction prepares a letter to the Disputant** which states the Notice number, confirms the adjudication decision, states the total fine and fees outstanding along with the date on which a surcharge will be applied along with the amount of the surcharge, provides alternative methods of payment, and states that the notice will be referred to a collection agent if left unpaid.

Freedom of Information Considerations

Redact any personal information such as names, emails, and phone numbers (i.e., someone puts in the original complaint that resulted in the Bylaw Offence Notice and they have provided a statement.)

RDCO FOI Coordinator, Sandi Horning, can assist with review and redacting of relevant information before sending to the disputant. Email the FOI Coordinator at FOI@rdco.com.

How to Pay a Ticket

In Person

Regional District of Central Okanagan

1450 KLO Road

Kelowna, BC V1W 3Z4

Monday through Friday, 8:00 am to 4:00 pm excluding Statutory Holidays.

Accepted payments: credit, cash, debit, cheque, money order or bank draft.

Online

[How to Pay Bylaw Ticket Online](#) instruction document

Accepted payments: credit, visa debit

Drop Box

Outside of normal business hours, include your Bylaw Offence Notice and payment by cheque, money order or bank draft in a sealed envelope, and drop it into the Deposit Box located beside the front door of the Regional District office, 1450 KLO Road in Kelowna.

Mail

Include your Bylaw Offence Notice and payment by cheque or money order (do not mail cash), payable to Regional District of Central Okanagan and mail to:

Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4

Postmarks are not accepted as proof of date of payment, so ensure payment is delivered before the payment due date.

Additional charges will apply to NSF cheques. NSF cheques or invalid cheques will not be considered payment of the penalty before the due date.

Unpaid Tickets

If the Offence Notice is not paid, is not disputed or an adjudication hearing has not been requested within 14 days, the opportunity to dispute the Notice is lost and the penalty will immediately become due and payable to the Regional District.

If after 14 days the Offence Notice has not been paid and a request for Adjudication has not been made, a letter will be sent providing a final opportunity to pay. If payment is not received after a further 28 days, the Notice may be forwarded for collection and/or court action.

Records Management

Documents will be filed in the H Drive file path, Bylaw Enforcement, 4050 Adjudications, Compliance Agreements or Bylaw Disputes/Adjudications. All Templates, Forms, Screening Reports, Compliance Agreements and Adjudication Disclosure packages contained within.

Adjudication disclosure package

- The report prepared by the Screening Officer
- The report prepared by the Bylaw Officer
- Any additional information detailing the rationale for not dismissing the notice.
- A copy of the Notice of Adjudication.
- A copy of the Bylaw Notice
- A printed quote of the bylaw section under which the notice was issued.
- Correspondence to/from disputant and Bylaw Services

All files will follow the retention schedule as dictated by the RDCO Records Management System.