



Standard Operating Guideline Bylaw Enforcement

Complaints

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RESPONSE

Response Types	Bylaw Enforcement violations	Proactive and Reactive
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PURPOSE/REQUIREMENTS

Description	In order to address complaints in a fair and consistent manner, a guideline is required for the general enforcement of municipal bylaws.
Objectives	This guideline is to provide guidance to staff and the general public regarding bylaw enforcement. Council may provide other policy guidance or direction on specific complaints or enforcement issues.

REFERENCES/REQUIREMENTS

Policies/References	<ul style="list-style-type: none"> Complaints Policy - Bylaw Enforcement No. GGA-23 Freedom of Information (FOI) General Guidelines Bylaw Department The Office of the Ombudsperson. Bylaw Enforcement: Best Practices Guide for Local Governments
Definitions	<p>"BYLAW SERVICES OFFICER" means that person appointed by the City, whether officially titled as such or not, or any person delegated to assist in carrying out his/her duties under this bylaw, and includes any peace officer.</p> <p>"DISCRETION" means the freedom to decide what should be done in a particular situation given all the available information.</p> <p>"FRIVOLOUS COMPLAINT" means a complaint not having any serious purpose or value.</p> <p>"NUISANCE" means any conduct, activity, or condition that unreasonably interferes with a person's use and enjoyment of a public area or of land he or she owns or occupies, or which annoys or gives trouble, or is offensive, irritating, or a pest to anyone within the city.</p> <p>"PERSON" includes a natural person, a company, corporation, partnership, firm, association, society, or party and the personal or other legal representatives of a person to whom the context can apply according to law.</p>

	<p>“PERSONAL INFORMATION” is anything that would reveal the name, address, phone number, race, national or ethnic origin, colour, religious or political beliefs, age, gender, marital status, or family status.</p> <p>“PROPERTY” means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways, boulevards, and sidewalks, together with any and all structures or fences located thereon.</p> <p>“VALID COMPLAINT” means a complaint that describes the location and general nature of a potential bylaw contravention, including the requestor’s name, address, and telephone number, and that is not a frivolous or vexatious complaint.</p> <p>“VEXATIOUS COMPLAINT” means a complaint that is made for retaliatory or bad faith purposes, or otherwise forms part of a pattern of conduct by the requestor that amounts to an abuse of the complaint process.</p>
<p>General Provisions</p>	<p>For consistency and fairness to all residents and landowners within the City of Kamloops, the following general provisions and guidelines will be followed by City Bylaw Services Officers (BSOs):</p> <ul style="list-style-type: none"> • In responding to complaints, except in cases related to public health and safety, the highest priority will be to respond to valid complaints. • During the regular course of their duties, BSOs may seek out bylaw infractions for issues of public health and/or safety or other bylaw violations. • It is not possible to actively ensure that all the City’s various regulatory bylaws are being complied with at all times. Enforcing the City’s own bylaws is therefore discretionary and not mandatory. • The City promotes an enforcement philosophy that seeks voluntary bylaw compliance, which is often achieved through education, information, and non-penalty enforcement, including providing a reasonable time frame to comply. • Compliance may be encouraged through notification of fines and other enforcement measures associated with the offence. • Council is not involved in any way with the sanctioning of an investigation or making a decision on who shall be investigated.
<p>Enforcement Responses</p>	<p>The City’s response to valid complaints is generally prioritized (e.g. Priority 1 takes precedence over Priority 2, which takes precedence over Priority 3). The level of enforcement responses are defined as follows:</p> <ul style="list-style-type: none"> • Priority 1: Health and Safety - 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. • Priority 2: Significant Negative Impact to Adjacent Properties - the alleged bylaw violation is significantly impacting adjacent properties in a negative manner, but it does not pose an immediate risk to the environment or public safety. The City’s investigation and enforcement of Priority 2 matters is most often initiated in response to valid complaints.

	<ul style="list-style-type: none"> • 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 the environment or public safety. The City's investigation and enforcement of Priority 3 matters is initiated in response to complaints. Staff receiving a complaint will use discretion to determine whether there is sufficient geographic or other connection between the requestor and the location of the alleged violation to constitute a valid complaint. • Third-party Complaints - will be evaluated on a case-by-case basis. Investigations will generally proceed where there are potential safety, health, or liability issues or a clear linkage to an identifiable requestor. • Anonymous Complaints - will not be investigated unless potential safety, health, or liability issues are identified. • Frivolous or Vexatious Complaints - the City may receive multiple complaints from the same person on the same issue, which may be minor in nature and considered frivolous and vexatious. BSOs will investigate all bylaw-related complaints to ascertain their validity. If it is determined that all steps have been taken to resolve the complaint or issue, the complaints continue unabated, and there is no bylaw contravention and/or it is a Priority 3, the City maintains the right to not respond to or seek resolution to complaints that are deemed: <ul style="list-style-type: none"> - to not be in the public interest to mitigate - to not be in the jurisdiction of the City - more appropriately managed by the requestor through his or her own access to civil resolution process options such as stratas, the Residential Tenancy Branch, legal action, etc. - to not directly impact the requestor with the exception of Priority 1 violations
<p>Confidentiality</p>	<p>The Community Safety and Enforcement Division will ensure that the personal information of its clients is protected in accordance with the <i>Freedom of Information and Protection of Privacy Act</i>. The division will only collect personal information that is necessary for the monitoring and enforcement of a bylaw infraction.</p> <ul style="list-style-type: none"> • The identity of the requestor and the written complaint will not be disclosed to the alleged offender or any member of the public. It is not necessary for the requestor to request confidentiality. Likewise, the response of the alleged offender will not be disclosed to the requestor, whether it is in writing or made orally. • Persons reporting the alleged infractions of municipal bylaws are to be advised that their identity and any personal information they provide will be kept confidential unless they are required to testify in court or it is part of an audit or a similar process. • The anonymity and confidentiality given to requestors and alleged offenders cannot be assured if the investigation results in court, an audit, or similar proceedings. • Requestors and alleged offenders are to be advised that any personal information that they provide about other parties is subject to disclosure by order of the BC Information and Privacy Commissioner. • While the investigation is ongoing or while a resulting matter is before the courts, no information regarding the matter will be made available to the public or the requestor.

<p>Procedures</p>	<ul style="list-style-type: none"> • Bylaw complaints may be accepted by phone, email, letter, social media, the myKamloops app, or direct interaction with appropriate City representatives. • The majority of complaints are initially received by the Bylaw Clerk and can be resolved at this level with an explanation of the alleged bylaw violation. • If the complaint requires a BSO to investigate, the Bylaw Clerk is responsible for inputting all requests/complaints on the calls for service system during normal business hours. BSOs will be responsible for inputting all requests/complaints on the calls for service system after normal business hours. • All complaints are then assigned to the BSO, who will undertake a preliminary review of the complaint to ensure that the complaint is well founded and determine the level of priority for action. • When initially contacting the requestor as part of the preliminary review, the BSO should: <ul style="list-style-type: none"> - describe any steps taken to assess the complaint - describe any enforcement action taken or planned or the reasons for no enforcement action - provide any other relevant information • If the BSO investigates and there is no violation, the requestor and the alleged offender (if appropriate) will be advised, and a record of the enquiry will be filed in Tempest. • If a violation exists, the alleged offender will be notified verbally and/or in writing and asked to cease activity immediately. A record of the steps taken will be filed. Initially, the BSO will verbally notify and, where possible, attempt to achieve voluntary compliance with the alleged offender and inform the individual of time limits for voluntary compliance. • The BSO will follow up with a site visit to determine compliance. If the violation continues, a BSO may forward letters demanding compliance, issue warnings/fines, and undertake remedies authorized by the bylaw. • The BSO will maintain a record of all complaints received and action taken to resolve the issue, which will include statements, invoices, and photographs, including any documentation taken by the BSO and/or provided by the requestor and the alleged offender. • Pictures taken by the BSO will be signed and dated on the back of any printed picture and placed in the file. • The BSO will contact the requestor to advise him or her of the results of the investigation prior to submitting the file to be completed. • The Crew Leader and/or the Assistant Supervisor will complete the file after reviewing that the proper documentation for actions that were taken and that correspondence, copies of warnings/fines, invoices, and pictures are present in the hardcopy of the file or has confirmed that the documents are attached electronically on the calls for service.
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SPECIAL NOTES

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REVISIONS

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