

Association for the Protection of Rural Metchosin

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January 10, 2022

Councillor Kyara Kahakauwila
Chair, Planning Committee
District of Metchosin
4450 Happy Valley Road
Victoria, BC V9C 3Z3

Dear Councillor Kahakauwila:

Re: Comments on draft of new Bylaw Enforcement Policy

The Association for the Protection of Rural Metchosin (APRM) is pleased to provide comments on the new Bylaw Enforcement Policy, which will be discussed at the Special Planning Committee meeting on January 10, 2022.

- Section B (2) (i): Regarding this sentence, we suggest the following words be highlighted (bolded) to confirm the direction of this section: “The complainant’s name and any particulars of the complaint which may reveal the identity of the complainant **shall not be** disclosed to the alleged violator or any member of the public.”
- Section D: Enforcement Authority. We request that opening paragraph to this section include a brief reference to Section E: “Selecting Means of Enforcement.” This text may be revised to be (suggested sentence underlined): “The Local Government Act and the Community Charter provide the following means of enforcing bylaws. The approach(es) selected in each case should be made in consideration of Section E: “Selecting Means of Enforcement.””
- Section D (1) “Voluntary Compliance”. We request that the District include a general goal statement in terms of how it uses “Voluntary Compliance.” The following is suggested as a such a statement: “Voluntary Compliance may be used when there is potential to correct a bylaw violation quickly, effectively and with minimal cost implications to the District. Voluntary compliance is best used when a property owner has inadvertently violated a bylaw and, upon being made aware of the violation, is willing and able to quickly correct the situation. Voluntary compliance may not be appropriate when a property owner should have reasonably known that the action in question is a bylaw offence.”

- We note that no expectations of **compliance timelines** are indicated within the “Voluntary Compliance” section. While we realize that specific timelines may not be practical in a policy with such a broad scope, we would suggest adding a provision indicating that “In situations where voluntary compliance has been granted, compliance actions are to be undertaken and verified as complete as soon as is reasonably possible.”
- Section D (3) “Ticketing” and also noted in Sections E and F. The policy needs further clarification around process for authorizing tickets. For example, is the decision to issue a ticket made only by CRD Bylaw Enforcement or is the CAO involved in such a decision? If the CAO is involved, this is not entirely clear in the policy. This may be clarified simply by adding the following sentence (underlined) to Section F (2) (ii): “sub-delegating enforcement responsibilities to Staff/CRD Bylaw Enforcement and providing direction on enforcement, including authorizing tickets;”
- Section D (4) “Prosecution.” We request that information about the timelines for commencing a prosecution process be included in this statement. For example, we understand that there are timelines for filing a long form information process in Provincial Court (six months after the offence was investigated, we understand).
- Section F (2) Staff. We understand that other District staff are enabled to enforce bylaws, and not just CRD Bylaw Enforcement. We request that this be noted in Section F (2) (b), even if this is to change the heading to “CRD Bylaw Enforcement and District Staff.”
- Section F (2) (b) CRD Bylaw Enforcement. The present policy draft makes no reference to following “best practices” in relation to investigations of complaints. A best practice may, for example, involve actually visiting a property that is the subject of a complaint.

Additional comments:

- Clean Hands Policy (CHP): At the October 26, 2021 session, there was discussion about adding reference to the CHP. We would ask that you clarify the reason that the CHP is not referenced in the new draft. Overall, we believe that District’s overall approach to bylaw enforcement would be significantly strengthened if CHP was incorporated into the draft policy, not standing separately as it does now. Further, we would recommend that every staff report to Council for future land use applications should include a section on the applicant’s standing in relation to the CHP.
- Ability of staff to report and notify of bylaw offences: A participant at the October 2021 workshop also noted some of the complexities of staff or Council being aware of a complaint even if this had not been reported to the District. Such a situation does not appear to be addressed in the draft Policy. For example, there is no statement indicating that staff or Council are free, and encouraged, to initiate a complaint when they are aware of a possible bylaw violation.

While we recognize work has been done to update the Municipal Ticket Information Bylaw, there are other important aspects of bylaw enforcement that have, as yet, not been covered by this process. For example, we urge the District to review and update other bylaws that are vital to environmental protection and the well-being of residents. We ask that Council prioritize the Noise Bylaw for such a review. In addition, we have previously requested a cost-benefit analysis on continuing to use the CRD for bylaw enforcement versus developing 'in-house' resources for bylaw enforcement.

We look forward to further progress on this review.

Sincerely,

Jay Shukin
President, Association for the Protection of Rural Metchoshin

CC: APRM Executive