



Purpose

The District of Wells Bylaw Notice Adjudication Registry (hereafter called the *Adjudication Registry*) provides a transparent and impartial process whereby disputants may challenge a Bylaw Notice issued by the District of Wells (DOW). The Adjudication Registry is managed by the DOW in accordance with Bylaw No. 143.

Part I: Adjudication Registry Operations Policy

Parties Involved

The process of disputing a Bylaw Notice involves five parties:

1. The Bylaw Officer (the persons authorized to issue the Bylaw Notice).
2. The Disputant (the party disputing the Bylaw Notice).
3. The Screening Officer (the persons designated under Bylaw No. 143 to act as the Screening Officer).
4. The Dispute Coordinator (the DOW employee who coordinates the activities of the Adjudication Registry).
5. The Adjudicator (the independent adjudicator with authority to determine if the Bylaw Notice is dismissed or upheld).

Dispute Process

When a Bylaw Notice is disputed, the Disputant enters into a two step adjudication process:

Adjudication Step 1: Screening Officer

The disputant contacts the Screening Officer; this communication may be by phone, in person, or in writing. The Screening Officer acts as follows:

1. Reviews the Bylaw Notice with the Disputant (see Appendix A: *Screening Checklist*) and undertakes the appropriate investigation including communication with the Bylaw Officer issuing the Bylaw Notice to determine the validity of the Bylaw Notice. Data is entered into the Bylaw Notice filing system. The Screening Officer has the authority to either uphold or dismiss the Bylaw Notice in accordance with the Cancellation Policy established in Part II: Screening Officer Bylaw Notice Cancellation Policy.
2. If the Bylaw Notice is dismissed, the Screening Officer cancels the Bylaw Notice and no further action is required by the Disputant.
3. If the Screening Officer upholds the Bylaw Notice, three options are available:
 - a. The Disputant may pay the discounted fine.
 - b. The Disputant may go forward with adjudication.

- c. Where permitted, the Disputant may enter into a compliance agreement in accordance with DOW Bylaw No. 143.

For all options, the Disputant is advised of applicable fines, fees, and surcharges.

4. If the Disputant chooses to go forward with adjudication, the Screening Officer prepares a file for the Dispute Coordinator that includes two copies of each of the following documents:
 - a. A report prepared by the Screening Officer based upon communication with the Disputant and a quote of the applicable bylaw section.
 - b. A report prepared by the Bylaw Officer issuing the Bylaw Notice including rationale for issuing the Bylaw Notice.

Adjudication Step 2: Dispute Adjudication

The Dispute Coordinator receives the file from a DOW Screening Officer. Adjudication cannot proceed until the Bylaw 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 calendar of the Bylaw Notice filing system.
3. Informs the Disputant of the available dates and agrees on the date and time.
4. Prepares a Bylaw Notice of Adjudication to be sent to the Disputant and to the municipality which confirms the date and time of the Adjudication Hearing along with the Disputant's preferred method of participation: in person, by phone, or through submission of documentation prior to the date of adjudication.
5. Coordinates with DOW 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, Bylaw Notice number, name of Disputant, method of participation by Disputant, and municipal authority issuing the Bylaw Notice. The following DOW departments must be notified of the forthcoming adjudication dates:
 - a. Administration (Finance, Adjudication room booking, Bylaw Supervision)
 - b. Public Works (Adjudication room set up, Information Technology set up, Security)
 - c. Deputy Clerk
6. Maintains an updated file and has this file available, as requested, for the Adjudicator. This file, which must be obtained from the municipality involved, includes the following documents:
 - a. The report prepared by the Screening Officer.
 - b. The report prepared by the Bylaw Officer.

- c. Any additional information detailing the rationale for not dismissing the Bylaw Notice.
 - d. A copy of the Bylaw Notice of Adjudication.
 - e. A copy of the Bylaw Notice.
 - f. A printed quote of the bylaw section under which the Bylaw Notice was issued.
7. Following the Adjudication Hearing, returns the file to the DOW with outcome of the Hearing noted.
 8. If a DOW Bylaw Notice is dismissed at the Adjudication Registry, no further action is required.
 9. If a DOW Bylaw Notice is upheld at the Adjudication Registry, the DOW prepares a letter to the Disputant which states the Bylaw 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 Bylaw Notice will be referred to a collection agent if left unpaid.

Appendix A: Screening Checklist

Screening Officers are required to provide disputants with as much information as they can, answer all questions openly, and take detailed notes of the conversation including date and time. The following are screening guidelines:

1. Identify your name and position as a Screening Officer with DOW.
2. State your authority to make a determination based upon authority granted by DOW.
3. Discuss the Bylaw Notice, listen carefully to the Disputant's information, and record this information.
4. Advise the Disputant that he/she may pay the fine before the early discount deadline and receive that discount. However, once the Bylaw Notice goes forward to Adjudication, the early discount is lost and an adjudication fee of \$25.00 is added to the full penalty. At the Adjudication, if the Bylaw Notice is quashed, no fees or penalties need to be paid.
5. Determine how the Disputant wishes to proceed with the hearing (in person, by phone, or in writing).
6. Provide the address of the Adjudication Hearing room (4243 Sanders Ave.) and advise of any necessary contact information such as fax number, email address and mailing address if the Disputant needs these to send documents.
7. Advise the Disputant that if the Adjudicator upholds the Bylaw Notice, it is due and payable immediately. Also, advise the Disputant that the fine increases 14 days after Adjudication and then proceeds to collection.
8. Explain that once a date and time are set for Adjudication, the additional adjudication fee must be paid even if the Disputant decides not to go ahead with the Adjudication.
9. Verify you have the correct address and daytime phone number of the Disputant.
10. Explain that the Dispute Coordinator will call to set up a hearing date and time along with instructions about phone, fax, or written submission to the Adjudication Hearing. The Dispute Coordinator will also send written confirmation of the Adjudication Hearing. State clearly that the Disputant cannot discuss the Bylaw Notice with the Dispute Coordinator.
11. Ask if the Disputant has any more questions or needs any more information.
12. Ask if the Disputant wishes to say anything else at all and note the response.
13. Make a decision to cancel or uphold the Bylaw Notice; explain this to Disputant and make notes.
14. If cancelling, do so immediately; if upholding, continue to the Dispute Coordinator.

Following the conversation with the Disputant:

1. Notify the Dispute Coordinator to request Adjudication Hearing.
2. In the file, note the date and time the Dispute Coordinator was notified.
3. Prepare reports needed for Adjudication.

Part II: Screening Officer Bylaw Notice Cancellation Policy

WHEREAS the District of Wells has passed a Bylaw designating certain Bylaw contraventions that may be dealt with by Bylaw Notice; and

WHEREAS the District of Wells has established a position of Screening Officer who must review all disputed Bylaw Notices before dispute adjudication in respect of the Bylaw Notice may be scheduled; and

WHEREAS the Screening Officer has the power to cancel a Bylaw Notice on a ground of cancellation authorized by the District pursuant to s. 10(2)(a)(iii) of the Local Government Bylaw Notice Enforcement Act; and

WHEREAS the District of Wells finds it expedient to provide for grounds of cancellation of a Bylaw Notice in certain circumstances,

NOW THEREFORE the District of Wells resolves to authorize the Screening Officer to cancel Bylaw Notices in the described circumstances.

1. The Screening Officer is authorized to cancel and may cancel a Bylaw Notice where he or she is satisfied that one or more of the following reasons exist and the person is not willing to enter a compliance agreement or a compliance agreement is not available for the offence:
 - a. Identity cannot be proven. For example:
 - i. The Bylaw Notice was issued to the wrong person; or
 - ii. The vehicle involved in the contravention had been stolen.
 - b. An exception specified in the Bylaw or a related enactment is made out;
 - c. There is a poor likelihood of success at adjudication for the District. For example:
 - i. The evidence is inadequate to show a contravention;
 - ii. The Officer relied on incorrect information in issuing the Bylaw Notice;
 - iii. The Bylaw Notice was not completed properly;
 - d. The contravention was necessary for the preservation of health and safety. For example:
 - i. The contravention was the result of a medical emergency.
 - e. The Bylaw Notice may be cancelled if it is not in the public interest to proceed to adjudication for one of the following reasons:
 - i. The person who received the Bylaw Notice was permitted or entitled to take the action, but the issuing officer was not aware of this entitlement or permit;

- ii. The person receiving the Bylaw Notice does not live in the vicinity, or the vehicle is not registered in the vicinity, and the screening officer is satisfied the person is a tourist or visitor to the District and the person is not a repeat offender;
- iii. The person receiving the Bylaw Notice was undergoing a personal tragedy at the time of the contravention such that it is not in the public interest to proceed;
- iv. The Bylaw has changed since the Bylaw Notice was issued, and now authorizes the contravention;
- v. The offence occurred as a result of a mechanical problem and the person could not reasonably comply with the bylaw.

PASSED AND FINALLY ADOPTED by a majority of Council members this 15th day of September, 2015.

Robin Sharpe, Mayor

Katrina Leckovic, Chief Administrative Officer