



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Bylaw Enforcement

NO. ADMIN - 68

Purpose:

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

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

1. Investigation:

- 1.1 For the purpose of this policy, a “Bylaw Management Officer” includes a peace officer, municipal officer, employee, agent, or any other person authorized by council to enforce Township bylaws.
- 1.2 A Bylaw Management Officer, acting in the regular course of his or her duties, may initiate investigations and conduct inspections to determine compliance with all regulations, prohibitions and requirements of Township bylaws.
- 1.3 Investigations may be initiated by written complaint. A complaint with respect to an alleged contravention of a municipal bylaw must be submitted in writing before the complaint will be considered for investigation, and must contain:
 - a. The name, address and contact information of the complainant;
 - b. A description of the nature and location of the alleged contravention.
- 1.4 Investigation and enforcement priority may be given to alleged contraventions that adversely affect the health, safety and security of the public; adversely effect the environment; or may result in liability for the Township.

2. Confidentiality:

- 2.1 The identity of a 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;

EFFECTIVE DATE:
April 1, 2019

APPROVED BY:
Council

REFERENCE:
ADM-13-032;
CSS-19-007

AMENDS:
August 26, 2013

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- 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 the disclosure of personal information contained in a bylaw enforcement file, it shall be the Township'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 foregoing, the Township shall not guarantee the anonymity and confidentiality of complainants and may disclose personal information in bylaw enforcement 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.

3. Enforcement:

- 3.1 In determining whether to commence enforcement proceedings, the Township may consider one or more of the following criteria:
 - a. The scale, nature, and duration of the contravention;
 - b. The amount of time that has elapsed since the contravention occurred;
 - c. The impact of the contravention on the community;
 - d. The resources available to resolve the matter;
 - e. The costs associated with enforcement action;
 - f. The probability of a successful outcome;
 - g. The policy implications of the enforcement action and the potential for precedents;
 - h. Whether public safety is at risk;
 - i. Whether enforcement may be a deterrent in future cases.
- 3.2 The Township's primary enforcement objective shall be to obtain voluntary compliance.

- 3.3 If voluntarily compliance is not achieved, the Township may exercise enforcement powers in accordance with the following remedies:
- a. Quasi-criminal proceedings in Provincial Court, including prosecutions under the *Offence Act*, and any other remedy as set out in Section 260 of the *Community Charter*;
 - b. Supreme Court injunction proceedings as set out in Section 274 of the *Community Charter*; and
 - c. Remedial action and any other remedy as set out in Part 3, Divisions 5-12 of the *Community Charter*, and the Township may further seek to fulfill those requirements at the expense of the person in contravention, in accordance with the provisions of Section 17 of the *Community Charter*.
- 3.4 The Township retains the discretion to not commence enforcement proceedings in accordance with one or more of the criteria listed in section 3.1 of this policy.
- 3.5 The Bylaw Management Officer shall maintain a written record of inspections and investigations undertaken and record the disposition of all complaints received.
- 3.6 When practical to do so, and while considering the privacy interests of the subject of the complaint, the Bylaw Management Officer will contact each complainant and:
- Acknowledge the complaint
 - Describe any investigative steps taken to assess the complaint
 - Describe any enforcement action taken or planned, or the reasons for no enforcement action, and
 - Provide any other relevant information.