



TOWN OF GOLDEN CORPORATE POLICY

BYLAW ENFORCEMENT

Effective Date: March 19th, 2019

Authorized By: Council
Resolution # 19-095

Replaces: New

INTENT

To provide guidance to staff on the receipt of complaints and the initiation of investigation and enforcement proceedings related to contraventions of Town bylaws.

To establish a code of conduct for Bylaw Enforcement Officers.

1. OVERVIEW

1.1 Bylaw Enforcement statistics, trends, fines, and categories of files including proactive vs. complaint basis files, shall be reported quarterly to Council.

1.2 Reporting statistics shall include, but not be limited to the following:

- Bylaw Enforcement files opened;
- Dogs licensed;
- Parking/traffic files opened;
- Stray dogs impounded/released;
- Tickets disputed in Court (and the outcomes);
- Tickets disputed through Bylaw Adjudication (and the outcomes);
- Total tickets issued;
- Total tickets issued by the RCMP;
- The amount of fines issued/collection efficiency;
- The number of pro-active files and the number of complaint files;
- Trends in enforcement activity (ie. parking issues, homelessness, graffiti, vandalism, short term rentals, noise, animal control, etc.);
- Vehicles towed.

1.3 Priority setting for Bylaw Enforcement matters shall be undertaken annually through Council's strategic priority meetings. The priority settings are at Council's discretion, and may identify enforcement goals for the year, focus on emerging bylaw enforcement trends, identify areas that may require greater proactive enforcement, or prioritize levels of proactive enforcement.

Council members are not involved in day-to-day bylaw enforcement decisions.

2. GENERAL

2.1 For the purpose of this policy, a “Bylaw Enforcement Officer” includes a municipal officer, employee, agent, or any other person authorized by Council to enforce Town bylaws.

2.2 Although the function operates on a complaint basis, a Bylaw Enforcement 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 Town bylaws. Section 16 of the *Community Charter* allows a Bylaw Enforcement Officer to enter onto private property for the following purposes:

- a) To inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the Council, a municipal officer or employee or a person authorized by the Council has exercised authority under this or another Act to regulate, prohibit and impose requirements;
- b) To take action authorized under section 17(1) [*municipal action at defaulter’s expense*];
- c) In relation to section 18 [*authority to discontinue providing a service*], to disconnect or remove the system or works of the service;
- d) To assess or inspect in relation to the exercise of authority under section 8 (3) (c) [*spheres of authority – trees*].

2.3 Investigations may be initiated in person, by written complaint (e-mail or letter), or by phone. A complaint with respect to an alleged contravention of a municipal bylaw must provide:

- a) The name, address and contact information of the complainant and
- b) A description of the nature and location of the alleged contravention;

Anonymous complaints will not be accepted.

2.4 Complaints will be investigated on a priority basis and will be based on the following criteria:

- Health, safety, and security of the public;
- Damage to the environment;
- The impact of the violation on the community;
- The impact of the violation on the complainant;
- The nature of the complaint and the allegation (ie. repeat offence).

2.5 All complaints will be acknowledged in a timely manner and shall be placed in priority sequence for additional follow-up, noting that:

- Details of the complaint will be recorded and assigned for follow-up;
- The Bylaw Enforcement Officer will review the file details and determine an appropriate priority response;

- Depending on the nature of the complaint, the Bylaw Enforcement Officer may contact the complainant for additional detail and may provide expected timelines for the complaint to be addressed or provide reasons why the complaint will not be investigated;
- Not all types of complaints necessitate that the Bylaw Enforcement Officer contact the complainant to advise of the file outcome.

2.6 Complaints that are frivolous or become repeat complaints, will be referred to the manager responsible for a determination on the outcome and the complainant will be notified on the reason for imposing the outcome.

3. CONFIDENTIALITY

3.1 The identity of a complainant is 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;
- b) Bylaw enforcement investigations 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 Town's policy to release the records in accordance with the *Freedom of Information and Protection of Privacy Act*.
- d) Despite the foregoing, the Town shall not guarantee the anonymity and confidentiality of complainants and may disclose personal information in bylaw enforcement files in the following circumstances:
 - i. If disclosure is required pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*;
 - ii. As otherwise required by law.

4. ENFORCEMENT

4.1 The Town of Golden cannot take enforcement action with respect to every contravention of a bylaw that may occur within its jurisdiction. Bylaw enforcement initiatives/actions will be determined by available capacity and resources. The Town 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 Town. In determining whether to commence enforcement proceedings, the Town 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 lapsed 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.

4.2 The Town's primary enforcement objective shall be to obtain voluntary compliance.

4.3 If voluntary compliance is not achieved, the Town may exercise enforcement powers in accordance with the following remedies:

- a) The issuance of an Order to Comply;
- b) The issuance of a Bylaw Offence Notice;
- c) 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*;
- d) Supreme Court injunction proceedings as set out in Section 274 of the *Community Charter*;
- e) Remedial action and any other remedy as set out in Part 3, Divisions 5-12 of the *Community Charter*, and the Town 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*.

4.4 The Town retains the discretion to not commence enforcement proceedings in accordance with one or more of the criteria listed in Section 4.1 of this policy.

4.5 The Bylaw Enforcement Officer shall maintain a written record of inspections and investigations undertaken and record the disposition of all complaints received.

5. CODE OF CONDUCT FOR BYLAW ENFORCEMENT OFFICERS

5.1 A Bylaw Enforcement Officer shall not violate:

- a) An Act of the Parliament of Canada;
- b) An Act of the Legislative Assembly of British Columbia;
- c) Any regulation made under an Act of either the Parliament of Canada or the Legislative Assembly of British Columbia.

5.2 A Bylaw Enforcement Officer shall not:

- a) Act in a disorderly or inappropriate manner;
- b) Act in a manner that would be harmful to the organizational discipline or is likely to discredit the reputation of law enforcement;
- c) Commit insubordination, where the Bylaw Enforcement Officer by word or action, and without lawful excuse, disobeys, omits or neglects to carry out any lawful order;
- d) Withhold or suppress a complaint against, or a report made about, a Bylaw Enforcement Officer;
- e) Neglect, without a lawful excuse, to promptly or diligently perform their duties;
- f) Wilfully or negligently make or sign a false, misleading or inaccurate statement in any official document or record;

- g) Without lawful excuse:
 - i. destroy, mutilate or conceal an official document or record;
 - ii. alter or erase an entry in any official document or record;
- h) Make known any matter that is a person's duty to keep in confidence, or communicate to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or ongoing investigation;
- i) Fail to account for or to make a prompt and true return of money or property that the Bylaw Enforcement Officer receives in their official capacity;
- j) Directly or indirectly ask for, or receive, a payment, gift, subscription, testimonial or favour;
- k) Become involved in a financial, contractual or other obligation with a person whom the Bylaw Enforcement Officer could reasonably expect to report or give evidence about;
- l) Without lawful excuse, use their official position for personal advantage or another person's personal advantage;
- m) Exercise authority when it is unlawful or unnecessary to do so;
- n) Participate directly in any political activity which would impair the Bylaw Enforcement Officer's impartiality in the performance of his or her duties;
- o) Apply excessive or otherwise inappropriate force in circumstances where force (force includes fines) is used.

6. COMPLAINTS AND DISCIPLINARY MEASURES

- 6.1 For the purposes of this policy, any violation of the Code of Conduct section constitutes disciplinary defaults by a Bylaw Enforcement Officer.
- 6.2 Any person may make a complaint in writing regarding a Bylaw Enforcement Officer to the manager responsible and/or the Chief Administrative Officer.
- 6.3 Where a complaint is made under section 6.2, the Chief Administrative Officer must investigate and dispose of the complaint in accordance with the procedures set out in the *Town of Golden Progressive Discipline Policy*.

ORIGINAL SIGNED BY R. OSZUST

ORIGINAL SIGNED BY J. WILSGARD

Mayor

CAO