



Town of Alberton, PEI
A Bylaw with respect to Enforcement and Summary Proceedings
Bylaw #2021-4

BE IT ENACTED by the Town of Alberton
as follows:

PART I – APPLICATION AND INTERPRETATION

1. Title

- 1.1 This bylaw shall be known and cited as the “Enforcement and Summary Proceedings Bylaw #2021-4.”

2. Authority

- 2.1 This bylaw is made under the authority of the *Municipal Government Act*, RSPEI 1988, Cap. M-12.1 as amended from time to time.

3. Application

- 3.1 This bylaw pertains to the appointment of Enforcement Officers and the prosecution of municipal offences.

4. Definitions

4.1 In this bylaw:

- (a) “Act” means the *Municipal Government Act*, RSPEI 1988, Cap. M-12.1.
- (b) “Chief Administrative Officer” means the administrative head of the Town as appointed by Council pursuant to clause 86(2)(c) of the *Act*.
- (c) “Council” means the duly elected Council of the Town of Alberton.
- (d) “Criminal Code” means the *Criminal Code*, RSC 1985, c. C-46, as amended from time to time.
- (e) “Enforcement Officer” means any individual or group of individuals as may be appointed pursuant to section 223 of the *Act* and Part III of this Bylaw.

- (e) "Enforcement Officer" means any individual or group of individuals as may be appointed pursuant to section 223 of the *Act* and Part III of this Bylaw.
- (f) "Justice of the Peace" means a justice of the peace appointed in accordance with the *Provincial Court Act*, RSPEI 1988, Cap. P-25.
- (g) "Provincial Court Judge" means a judge of the Provincial Court appointed in accordance with the *Provincial Court Act*, RSPEI 1988, Cap. P-25.
- (h) "Third Party" means an individual or corporation hired by the Town to provide bylaw enforcement services and whose principals, contractors, and/or employees serve as Enforcement Officers for the Town
- (i) "Town" means the Town of Alberton.

5. Interpretation

- 5.1 This bylaw is to be given a broad, liberal interpretation in accordance with applicable legislation and the definitions set out in it.
- 5.2 In this bylaw words importing the singular shall include the plural and words importing the masculine gender shall include the female gender and vice versa.

6. Severability

- 6.1 It is the intention of the Town Council that each separate provision of this bylaw shall be deemed independent from all other provisions of this bylaw, such that, if any provisions of this bylaw are declared invalid, all other provisions of this bylaw shall remain valid and enforceable.

7. Regulations

- 7.1 Council may, by simple resolution, make such regulations to this bylaw as are necessary for the carrying out of the purposes of this bylaw.

PART II – GENERAL

8. General

- 8.1 This bylaw applies to all offences under the Noise and Nuisance Bylaw (Bylaw # 2021-3), the Development Bylaw (Development Bylaw effective May 1, 2018, and amended January 4, 2021) and to such other bylaws as may be enacted by the Town pursuant to the *Act*:

- (a) to determine if a person has committed an offence under a Town bylaw for which he or she is liable to fine, penalty or other punishment; or
 - (b) to obtain from a Provincial Court Judge an order for the payment of money or other remedy authorized by a Town bylaw.
- 8.2 Except as otherwise provided by any bylaw, where imprisonment, fine, penalty or other punishment prescribed by a bylaw may be enforced or recovered upon summary conviction or by summary proceedings, the bylaw shall be enforced or recovered before a Provincial Court Judge in the manner provided by this bylaw.
- 8.3 For the purpose of any bylaw, penalties, corrective actions or both, associated to that bylaw may be imposed, upon a guilty plea, by a Justice of the Peace.
- 8.4 The provisions of the Criminal Code, including provisions relating to appeals, applicable to offences punishable on summary conviction apply with the necessary changes to proceedings to which this bylaw applies.
- 8.5 In applying the provisions of the Criminal Code, the following expressions shall therein have the following meanings:
 - (a) "Act of the Parliament of Canada" means a Town bylaw;
 - (b) "Attorney General" means the Attorney General of Prince Edward Island;
 - (c) "Prison" means any place other than a penitentiary in which persons charged with or convicted of offences are kept or detained in custody;
 - (d) "Prosecutor" means a person who lays an information or makes a complaint or counsel acting on behalf of the Town.
- 8.6 All offences under a Town bylaw shall be punishable on summary conviction.
- 8.7 Where no punishment is provided for an offence under a Bylaw, the punishment for that offence shall be a fine of not less than \$200.00 or a fine of not more than \$10,000 or in default, imprisonment for a period of 3 days plus an additional day for each \$100 (or part thereof) that is in default to a maximum of 60 days.

8.8. In addition to the procedures set out in the Criminal Code for laying an information and for issuing a summons, an information may be laid, and a summons issued, by means of a ticket for an offence under any provisions of a bylaw passed by Council pursuant to section 227 of the *Act* in accordance with this section, as follows:

- (a) a ticket shall be issued in the form hereto annexed as Schedule "A" and shall include provision for the information, summons, and record of officer;
- (b) a ticket may be issued for the bylaw offences set out in "Schedule B" hereto annexed;
- (c) the words or expressions set out in Column II of "Schedule B" may be used on a ticket to designate an offence under the provision of the bylaw referred to in Column I thereof;
- (d) notwithstanding clause (c) above, any words or expressions used on a ticket which describe with sufficient clarity the offence committed shall be for all purposes a sufficient description of an offence designated in "Schedule B".
- (e) where the offence charged in the ticket is one for which the penalty may be paid out of court, the Enforcement Officer issuing the summons may enter the amount of the penalty in the place provided therefor on the ticket, and that entry constitutes the endorsement required by subsection 8.9.
- (f) the amount of penalty entered on a summons under clause (e) shall be equal to the sum of:
 - i. the administrative charge;
 - ii. the use on the ticket of any word or expression authorized by this or any other bylaw to designate an offence is sufficient for all purposes to describe the offence designated by that word or expression;
- (g) the penalty prescribed for the out of court settlement of the offence charged in the summons, and
- (h) upon completing a ticket, the issuing Enforcement Officer shall print his or her name on the summons portion and deliver the summons portion to the person charged with an offence herein, and delivery of the ticket summons in accordance with this subsection shall be deemed to be personal service;

- (i) delivery of a ticket summons may be made on a holiday;
- (j) the issuing Enforcement Officer shall sign the information portion of the ticket and certify that he or she personally delivered the summons portion of the ticket to the person charged therein and the certification shall be in the following words: "I certify that I did personally deliver the summons portion of this ticket on the accused on the _____ day of _____, 20__.";
- (k) a certificate of delivery purporting to be signed by the issuing Enforcement Officer shall be received in evidence as sufficient proof of personal service in the absence of evidence to the contrary;
- (l) every ticket information shall be:
 - i. signed by the informant and is deemed to have been made under oath or affirmation before a provincial court judge, and
 - ii. in the event of a trial, and upon the entering of a not guilty plea, deposited, together with the ticket report of conviction, with the proper Provincial Court Judge;
- (m) the ticket information need not be sworn to before the summons portion of the ticket is delivered and the informant need not be the same person as the person who issued the ticket summons.

8.9. There may be endorsed upon a ticket summons a notice that the person to whom the summons is directed may pay out of court a specified penalty.

8.10 Where a ticket summons is so endorsed, it shall provide for a plea of guilty in the following form:

PLEA OF GUILTY

I am aware that I have the legal right to a hearing in respect of the offence with which I am charged, that by signing this plea of guilty I am waiving my right to a hearing and that my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged.

Signature of the Accused

8.11. A signature affixed to the form of plea of guilty purporting to be that of the person to whom the summons is directed is prima facie proof that it is the signature of that person.

- 8.12. The Enforcement Officer or other person delivering a summons endorsed under this section shall not receive payment of the penalty payable out of court, or any part thereof.
- 8.13. Upon receipt of the summons with a plea of guilty made thereon in accordance with sub-section 8.10, a Provincial Court Judge or Justice of the Peace may convict the person to whom the summons is directed of the offense described in the summons.
- 8.14. Where a person to whom a ticket summons has been delivered fails to appear as directed by the ticket summons and there has been no plea of guilty made on the ticket pursuant to sub-section 8.10, the Provincial Court Judge or Justice of the Peace shall:
- (a) where the information portion of the offence ticket is sworn to by the informant and is complete and regular on its face, enter a conviction on that information and impose the minimum penalty authorized by law for the offence or, where another penalty for that offence has been prescribed for out of the court settlement, that other penalty; or
 - (b) where the information portion of the offence ticket is not complete and regular on its face, quash the proceeding.

PART III – BYLAW ENFORCEMENT OFFICERS

9. Appointment and Supervision

- 9.1. Council hereby establishes the position of Bylaw Enforcement Officer and an individual appointed to that position will have the title "Bylaw Enforcement Officer".
- 9.2. The Chief Administrative Officer shall appoint all Bylaw Enforcement Officers for the Town and Bylaw Enforcement Officers shall report to the Chief Administrative Officer.

10. Qualifications

- 10.1. To be eligible for appointment as a Bylaw Enforcement Officer, individuals must provide the Chief Administrative Officer with the following:
- (a) a recent criminal, and vulnerable sector, record check acceptable to the Chief Administrative Officer;
 - (b) proof of adequate education and training necessary for performing the powers, duties and functions of a Bylaw Enforcement Officer; and
 - (c) any other information that the Chief Administrative Officer determines is relevant or necessary in order to carry out the duties of a Bylaw Enforcement Officer for the Town.
- 10.2. Bylaw Enforcement Officers shall comply with all relevant policies, directives and procedures of the Town.
- 10.3. Prior to commencing his or her duties, a Bylaw Enforcement Officer shall swear or affirm the oath hereto annexed as Schedule "C".
- 10.4. An individual may be appointed as a Bylaw Enforcement Officer for the Town notwithstanding that he or she may also be appointed as an enforcement officer for another municipality.

11. Powers and Duties of a Bylaw Enforcement Officer

- 11.1. A Bylaw Enforcement Officer shall be responsible for:
- (a) enforcing the bylaws for which the Bylaw Enforcement Officer is authorized to enforce within the boundaries of the Town;
 - (b) following the directions of the Chief Administrative Officer, performing all enforcement duties delegated by the Chief Administrative Officer and reporting to the Chief Administrative Officer as required;
 - (c) responding to, investigating, and keeping a written record of complaints;
 - (d) conducting routine patrols, as directed by the Chief Administrative Officer;
 - (e) issuing notices and municipal offense tickets;

- (f) where required by a bylaw, laying an information;
- (g) assisting in the prosecution of bylaw contraventions including appearances in court to provide evidence;
- (h) investigating properties to ensure compliance with bylaws, as directed by the Chief Administrative Officer;
- (i) carrying upon his or her person at all such times as he or she is acting as a Bylaw Enforcement Officer evidence in writing of his or her position as a Bylaw Enforcement Officer of the Town;
- (j) acting in accordance with the *Act*, including, but not limited to, the provisions set forth in Part 9 of the *Act*;
- (k) liaising with community groups and organizations concerning safety issues, as directed by the Chief Administrative Officer;
- (l) performing other related duties as may be required or assigned by the Chief Administrative Officer.

12. Notice for Inspection and Enforcement

- 12.1. Where this Bylaw or another Town bylaw authorizes or requires a Bylaw Enforcement Officer to
- (a) inspect anything;
 - (b) remedy anything;
 - (c) enforce anything; or
 - (d) do anything required to be done by the Town, the Bylaw Enforcement Officer may, after giving not less than 24 hours' notice to the owner or occupier of land or a building or other structure, take an action specified in sub-section 12.2.
- 12.2. A Bylaw Enforcement Officer may, on notice in accordance with sub-section 12.1,
- (a) enter the land, building or structure referred to in subsection (a) at any reasonable time and carry out the inspection, enforcement or action authorized or required by this Bylaw or another Town bylaw;

- (b) require that anything be produced to assist in the inspection, remedy, enforcement or action; and
 - (c) make copies of anything related to the inspection, remedy, enforcement or action.
- 12.3 A Bylaw Enforcement Officer acting under this section shall display or produce, on request, identification and documentation showing that the person is authorized to carry out the duties specified in sub-section 12.2.
- 12.4 A Bylaw Enforcement Officer acting under this section shall not enter a dwelling without a warrant issued under the *Summary Proceedings Act* (PEI) unless the occupant consents to the entry.
- 12.5 Despite sub-section 12.1, where, in the opinion of a Bylaw Enforcement Officer acting under this section, an emergency or extraordinary circumstances exist, the Bylaw Enforcement Officer is not required to give 24 hours' notice or enter at a reasonable hour to do the things referred to in section 12.2.

13. Complaint Process

- 13.1. Complaints of inappropriate conduct of a Bylaw Enforcement Officer shall be directed to the Chief Administrative Officer.
- 13.2. All complaints must be accepted and addressed according to this bylaw and must be submitted in writing.
- 13.3. The Chief Administrative Officer shall acknowledge receipt of the complaint, in writing, to the person making the complaint.
- 13.4. The Chief Administrative Officer shall provide notice of the complaint:
 - (a) to the Bylaw Enforcement Officer against whom the complaint is made;
 - (b) to Council; and
 - (c) where the Town has contracted with a Third Party for the services of the Enforcement Officer, to the Third Party.
- 13.5. A contract between the Town and a Third Party wherein the Third Party agrees to provide the services of one or more individuals to act as Enforcement Officers shall, at a minimum, contain the following provisions with respect to the complaint process:
 - (a) that upon the receipt of a complaint in respect of a Bylaw Enforcement Officer, the Chief Administrative Officer may

suspend that individual from acting as a Bylaw Enforcement Officer for the Town pending the completion of the complaint process;

- (b) that upon the receipt of a complaint in respect of the individual, the Third Party shall hire an independent party that is acceptable to the Town to conduct an investigation and the costs associated with the investigation shall be the responsibility of the Third Party; and
- (c) that the results of the investigation referred to in clause (b), together with any investigation report prepared, shall be forwarded to the Chief Administrative Officer, the complainant, the Third Party and the Bylaw Enforcement Officer who was investigated.

13.6. In the event there is no Third Party, the Town shall hire an independent party to investigate the complaint and the costs associated with the investigation shall be the responsibility of the Town.

13.7. Upon receipt of the results of the investigation and the investigation report, if any, the Chief Administrative Officer shall set a date and time for a hearing.

13.8. The complainant, the Bylaw Enforcement Officer and the Third Party, if any, shall have the opportunity to be heard at the hearing.

14. Disciplinary Action

14.1. If following the hearing conducted in accordance with section 13 above, the Chief Administrative Officer finds the Bylaw Enforcement Officer has acted inappropriately, the Chief Administrative Officer may take one of the following actions:

- (a) issue a verbal warning to the Bylaw Enforcement Officer;
- (b) issue a written reprimand to the Bylaw Enforcement Officer;
- (c) suspend the Bylaw Enforcement Officer from carrying out his or her duties in the Town for a specified time period; or
- (d) revoke the appointment of the Bylaw Enforcement Officer.

15. Notification and Appeal

- 15.1. The Chief Administrative Officer shall notify, in writing, the complainant, the Bylaw Enforcement Officer and the Third Party, if any, of the results of the investigation and what, if any, disciplinary action has been taken.
- 15.2. The Chief Administrative Officer shall include reasons for his or her decision with the notification provided under sub-section 15.1.
- 15.3. The complainant, the Bylaw Enforcement Officer and the Third Party, if any, have the right to appeal the Chief Administrative Officer's decision.
- 15.4. The Chief Administrative Officer shall include, in the notification provided under sub-section 15.1, a written notice that the Council is authorized to hear an appeal of the Chief Administrative Officer's decision and that the appeal must be filed, in writing, within 30 days of the date of the decision.
- 15.5. The written appeal submission must contain the reasons why the decision of the Chief Administrative Officer should be overturned.
- 15.6. The Council shall forward any written appeal submission it receives from a party listed in sub-section 15.3 to the remaining parties listed in sub-section 15.3 and the remaining parties shall have 20 days from their receipt of the written appeal submission within which to file their own written appeal submission.
- 15.7. After reviewing the information contained in the written appeal submissions provided under sub-sections 15.5. and 15.6., Council may
 - (a) dismiss the appeal; or
 - (b) allow the appeal and vary the decision of the Chief Administrative Officer.
- 15.8. The Council shall notify, in writing, the complainant, the Bylaw Enforcement Officer and the Party, if any, of the results of the appeal.
- 15.9. The Council has the authority to decide any matter of procedure not otherwise provided for in this bylaw.
- 15.10. The decision of Council is final and binding.

16. Schedules

16.1. The schedules to this bylaw form part of the bylaw and Schedule A may be changed by a resolution of the Council.

17. Effective Date

17.1 This Enforcement and Summary Proceedings Bylaw, Bylaw # 2021-4, shall be effective on the date of approval and adoption below.

First reading:
 This Enforcement and Summary Proceedings Bylaw #2021-4 was read a first time at Council meeting held on the 14th day of June 2021.

This Enforcement and Summary Proceedings Bylaw #2021-4 was approved by a majority of Council members present at the Council meeting held on 14th day of June 2021.

Second reading:
 This Enforcement and Summary Proceedings Bylaw #2021-4 was read a second time at Council meeting held on the 12th day of July 2021.

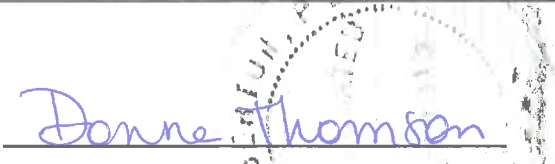
This Enforcement and Summary Proceedings Bylaw #2021-4 was approved by a majority of Council members present at the Council meeting held on the 12th day of July 2021.

This Enforcement and Summary Proceedings Bylaw #2021-4 was adopted by a majority of Council members present at the Council meeting held on the 12th day of July 2021.

18. Signatures



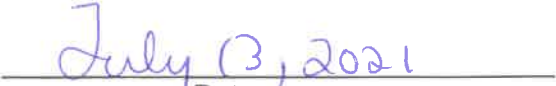
Mayor (signature sealed)



Chief Administrative Officer (signature sealed)

This Enforcement and Summary Proceedings Bylaw #2021-4 adopted by the Council of the Town of Alberton is certified to be a true copy.


Chief Administrative Officer


Date