

**RURAL MUNICIPALITY OF NORTH SHORE
BYLAW TO AMEND THE ENFORCEMENT AND SUMMARY PROCEEDINGS BYLAW
BYLAW # 2019-01-A**

BE IT ENACTED by the Council of the Rural Municipality of North Shore as follows:

PART I – INTERPRETATION AND APPLICATION

1. Title

1.1. This bylaw shall be known and cited as the “Bylaw to Amend the Enforcement and Summary Proceedings Bylaw”

2. Purpose

2.1. The purpose of this bylaw is to confirm the authority of an enforcement officer to issue orders under Section 238 of the Municipal Government Act, RSPEI 1988, c M-12.1, and to provide the process for issuing, serving, and appealing such orders.

3. Authority

3.1. This bylaw is adopted pursuant to Part 9 of the Municipal Government Act, RSPEI 1988, c M-12.1, and applicable regulations.

4. Definitions

4.1. In this bylaw, any word or term that is defined in the Municipal Government Act or in the Rural Municipality of North Shore Enforcement and Summary Proceeding Bylaw 2019-01 has the same meaning as in that Act, regulation, or bylaw.

PART II – AMENDMENT

5. Section 1 – Definitions – is amended by adding the following after subsection 1.7:

1.7.1 **“Occupier”** includes

- (i) a person who is in physical possession of premises, or
- (ii) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

6. Section 9 – Effective Date is repealed and replaced by the following:

PART IV – ORDERS

9. Orders

- 9.1.** Where an enforcement officer determines that a person is contravening a provision of a bylaw or an enactment which the municipality is authorized to enforce, the enforcement officer may issue an order.
- 9.2.** An order shall be issued to
- (a) the registered owner of the property; or
 - (b) the occupier of the property.
- 9.3.** The order may require the person to whom it is addressed, within a period of time specified in the order to
- (a) stop doing something, or change the way in which the person is doing it;
 - (b) take any action or measure necessary to remedy the contravention of the enactment, and, if necessary, to prevent a re-occurrence of the contravention;
 - (c) remedy the condition of the property in a manner and to the extent directed in the order;
 - (d) if authorized by a resolution of Council, remove or demolish any building or other structure which has been erected or placed in contravention of a bylaw;
 - (e) do all or any of the matters specified in clauses (a) to (d).
- 9.4.** The order shall
- (a) be in the form provided in Schedule “D” of this bylaw;
 - (b) state in which respect(s) the property does not meet the requirements of an enactment and what must be done to remedy the contravention;
 - (c) state the date which the property shall be brought into compliance with the requirements of this bylaw, which date is not to exceed thirty (30) days from the date the order is deemed to be served pursuant to subsection 9.6;
 - (d) state that if the person does not comply with the order within the prescribed time frame, the Municipality shall take the action or measure at the expense of the person.
- 9.5.** The order shall be served on the person notified
- (a) by personal delivery thereof to that person;
 - (b) by posting the order by registered mail with postage prepaid addressed to that person at the person’s latest known address; or
 - (c) where the address of that person is unknown, by posting the order in a conspicuous place on the property.
- 9.6.** The date of the service of the order shall be

- (a) on the date of delivery where personal service is made;
 - (b) on the date stated on the written acknowledgment of receipt where service by mail is made; or
 - (c) on the date of the posting where posting is made on the property.
- 9.7.** Proof of service of the order may be made by a certificate signed by the person serving the order setting forth the manner in which service was made and specifying the time of service.
- 9.8.** A certificate made under subsection 9.7
 - (a) shall be in the form provided at Schedule “E” of this bylaw;
 - (b) is proof of the signature of the person certifying; and
 - (c) is proof that the person named in the order received notice of the matters referred to in the order.
- 9.9.** An order continues in force for a period of twelve months from the date on which it is served on the person to whom it is addressed and, if that person permits the contravention to re-occur while the order is in force, the person shall be deemed to have failed to comply with the order and it may be enforced against the person accordingly, but without prejudice to the issue of a new order in respect of that property.
- 9.10.** An enforcement officer may extend the time for compliance with any order issued pursuant to this part, provided there is evidence of intent to comply with any such order and reasonable cause exists to prevent immediate compliance.
- 9.11.** Any extension of the time for compliance under subsection 9.10 will not extend the time for filing an appeal under section 10.

10. Appeals

- 10.1.** A person to whom an order is issued may, within fourteen (14) days from the date of service, appeal the order by filing a notice of appeal with the Chief Administrative Officer.
- 10.2.** The notice of appeal filed under this section shall be in writing, on a form attached hereto as Schedule “F”, and shall state the grounds for the appeal, the relief sought and the name and address of the person making the appeal.
- 10.3.** The Chief Administrative Officer shall forthwith deliver the notice of appeal and any supporting documentation to the Council and the enforcement officer who issued the order.
- 10.4.** Upon Council’s receipt of the notice of appeal, Council shall:
 - (a) determine a date, place and time for a hearing of the matter, which hearing shall take place not less than seven (7) days, and not more than thirty (30) days from the date of Council’s receipt of the notice of appeal;
 - (b) advise the owner in writing of the date, place and time of the hearing; and

- (c) provide the owner with a copy of any materials relied upon by the enforcement officer to justify the issuance of the order.
 - 10.5.** Council shall preside at the hearing and has the right to decide any matter of procedure not otherwise provided in this bylaw.
 - 10.6.** The owner shall be permitted to make submissions, adduce evidence, and question the inspector at the hearing.
 - 10.7.** After the hearing, the Council may, by resolution,
 - (a) confirm the order;
 - (b) vary the terms of the order;
 - (c) substitute its own order for the order reviewed; or
 - (d) rescind the order.
 - 10.8.** Council shall include in the recitals of the resolution referred to in subsection 10.7 brief written reasons for its decision.
 - 10.9.** Council shall provide a certified copy of the resolution to the person making the appeal.
 - 10.10.** Council's decision in the matter is final and there shall be no further right to appeal an order issued under this bylaw.
- 11. Failure to Comply with Order**
- 11.1.** Where a person on whom an order has been served fails to comply with the order or an order of the Council made under section 10, the enforcement officer may carry out the directives contained in the order and charge the costs of the work done to the person to whom the order was issued and the person so charged is personally liable therefore; neither the Municipality, the Council nor the enforcement officer is personally liable for any action taken under this section, nor for the costs of any goods, materials or labour incurred in exercising powers vested in the enforcement officer under this section.
- 12. Order for Costs of Remediation**
- 12.1.** The Council hereby authorizes an enforcement officer to issue an order for the costs of carrying out the work done under section 11 against the person to whom the order was issued and the order for costs shall be served in the manner provided in section 9.
 - 12.2.** The cost incurred by the Municipality to remedy a contravention of an order shall include an additional administrative fee of 25% of the costs incurred to a maximum fee of \$750.
 - 12.3.** An order for the costs of remediation made under subsection 12.1 may be filed with the Registrar of the Supreme Court at any time following thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.
 - 12.4.** An order for the costs of remediation made under subsection 12.1 shall also constitute a lien on the property which shall have priority over every claim, privilege, or encumbrance of any person except the Crown.

13. Offences and Penalties

- 13.1.** Any person who prevents or obstructs or attempts to prevent or obstruct an enforcement officer from carrying out their duties under this bylaw is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$1,000.
- 13.2.** Every person who fails to comply with an order issued under this bylaw is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$2,000.
- 13.3.** Where a contravention of an order continues for more than one day, the person responsible for the contravention is guilty of a separate offence for each day or part of a day on which the contravention occurs and shall be liable to a fine of \$1,000 for each day or part day on which the contravention occurs after the first day.
- 13.4.** The court may, in addition to any other penalty imposed, order the person to comply with the enactment under which the order was issued.

14. Limitation of Liability

- 14.1.** The Municipality, Council, enforcement officers, and persons acting under their instructions, or under the authority of this bylaw are not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the exercise or purported exercise of any powers given by this bylaw.

15. Enforcement

- 15.1.** In addition to any matter authorized in this bylaw, an enactment may be enforced, and any breach thereof may be restrained by application by the Municipality to the Supreme Court of Prince Edward Island in accordance with the *Municipal Government Act* or any successor legislation.

16. Severability / Conflicts

- 16.1.** It is the intention of Council that each separate provision of this bylaw shall be deemed independent from all other provisions of this bylaw, such that if any provision of this bylaw is declared invalid, all other provisions of this bylaw shall remain valid and enforceable.
- 16.2.** In the event of a conflict between this bylaw and the provision of any other enactment, the most stringent requirement shall apply.

17. Evidence

- 17.1.** A copy of any writing, paper or document filed in the Court, or any statement containing any information from the records of the Department of the Minister appointed pursuant to the provision of the *Real Property Assessment Act*, RSPEI 1988, c R-4, shall be received in evidence in Court without proof of signature and is *prima facie* evidence of the facts contained therein as to the name of the owner of the real property and the corresponding civic address.

18. Effective Date

- 18.1.** This Enforcement and Summary Proceedings Bylaw #2019-01 is effective on the date of approval and adoption by Council.

PART III – SCHEDULES

7. Schedules

- 7.1.** Council hereby adopts the Schedules annexed hereto as Schedule D, Schedule E, and Schedule F, which shall become part of the Enforcement and Summary Proceedings Bylaw.

PART IV – CONSOLIDATION and EFFECTIVE DATE

8. Consolidation

- 8.1.** Pursuant to section 133 of the *Municipal Government Act*, Council hereby authorizes the Chief Administrative Officer to consolidate the foregoing amendments into the Enforcement and Summary Proceedings Bylaw 2019-01, and to publish the consolidated version on the Municipality's website.

9. Effective Date

- 9.1.** This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw #2019-01-A, shall be effective on the date of approval and adoption by Council.

First Reading:

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01-A was read a first time at the Council meeting held on the 14th day of September, 2022.

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01-A was approved by a majority of Councillors present at the Council meeting held on the 14th day of September, 2022.

Second Reading:

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01-A was read a second time at the Council meeting held on the 12th day of October, 2022.

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01-A was approved by a majority of Councillors present at the Council meeting held on the 12th day of October, 2022.

Adoption and Approval by Council:

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01-A was adopted by a resolution of Council at the Council meeting held on the 12th day of October, 2022.

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw, Bylaw # 2019-01 is declared to be passed on the 12th day of October, 2022.

WITNESS the corporate seal of the Municipality.

Mayor, Gerard Watts (signature sealed)

Chief Administration Officer, Stephanie Moase
(signature sealed)

This Bylaw to Amend the Enforcement and Summary Proceedings Bylaw adopted by the Council of the Rural Municipality of North Shore is certified to be a true copy

Chief Administration Officer
(signature sealed)

Date

SCHEDULE "D"

This Schedule establishes the form to be used for an order issued pursuant to the Enforcement and Summary Proceedings Bylaw.

CORPORATION OF THE RURAL MUNICIPALITY OF NORTH SHORE

ORDER

(Issued pursuant to the Enforcement and Summary Proceedings Bylaw)

TO: _____

of _____

WHEREAS an inspection of real property designated as Parcel No. _____ located at _____, in _____, Prince Edward Island, has been made by an enforcement officer having authority under Bylaw # 2019-01 the *Enforcement and Summary Proceedings Bylaw*;

AND WHEREAS the said enforcement officer has determined that you have contravened section _____ of the _____ in the following respect:

THEREFORE, YOU ARE HEREBY ORDERED TO: _____

YOU ARE REQUIRED TO COMPLY with this Order within _____ days of the date of service of this Order.

IF YOU FAIL TO COMPLY WITH THIS ORDER within the time frame provided above, the Municipality shall take the action or measure required to remedy the contravention, and any costs of expenses incurred shall be a debt owing by you to the Municipality and a lien against the property.

Dated this _____ day of _____, 20____

ENFORCEMENT OFFICER

THIS ORDER MAY BE APPEALED TO COUNCIL PURSUANT TO SECTION 10 OF THE *ENFORCEMENT AND SUMMARY PROCEEDINGS BYLAW* BY FILING A NOTICE OF APPEAL WITH THE CHIEF ADMINISTRATIVE OFFICER OF THE MUNICIPALITY WITHIN FOURTEEN (14) DAYS OF THE DATE OF THE SERVICE OF THIS ORDER.

SCHEDULE "E"

This Schedule establishes the form to be used for the certificate referenced in Section 9.7 of the Enforcement and Summary Proceedings Bylaw .

CORPORATION OF THE RURAL MUNICIPALITY OF NORTH SHORE

CERTIFICATE OF SERVICE

(pursuant to subsection 9.7 of the Enforcement and Summary Proceedings Bylaw)

I, _____, of

_____, Prince Edward Island, declare that I did serve an Order issued pursuant to the *Enforcement and Summary Proceedings Bylaw*, a true copy of which is annexed hereto in the manner indicated below:

- () By personal delivery to the person to whom it is directed,
- () By posting the Order by Registered Mail with postage prepaid addressed to the latest known address of the person to whom it is addressed, or
- () By posting the Order in a conspicuous place on the property that is the subject of the Order,

on _____, the _____ day of _____, 20____, at the hour of _____ in the _____ noon at _____, in Queens County, Province of Prince Edward Island.

DATED this _____ day of _____, 20 _____.

SCHEDULE "F"

This Schedule establishes the form to be used for filing an appeal pursuant to Section 10 of the Enforcement and Summary Proceedings Bylaw.

CORPORATION OF THE RURAL MUNICIPALITY OF NORTH SHORE

NOTICE OF APPEAL

(pursuant to Section 10 of the Enforcement and Summary Proceedings Bylaw)

CONTACT INFORMATION	
Last Name:	First Name:
Company Name (if applicable):	
Email Address:	
Telephone Number:	
Mailing Address:	

APPEAL INFORMATION
List the reasons for your appeal (if more space is provided, kindly fill out a separate sheet and attach it to this form. If you intend to rely on any documents, including photographs, videos, or witness statements, kindly attach them to this form as well):

RELIEF SOUGHT
List or describe the relief sought (if more space is required, kindly fill out a separate sheet and attach it to this form):

DECLARATION	
I solemnly declare that all the statements and the information provided, are true, correct and complete. By signing this form, I consent to the collection of my personal information:	
Signature of Appellant:	Date:
In accordance with the <i>Freedom of Information and Protection of Privacy Act</i> , some of the information collected herein may be available to the public.	