



THE CORPORATION OF THE TOWNSHIP OF BILLINGS

BYLAW 2021-28

Being a bylaw to regulate the enforcement of The Bylaws of Billings Township, The Ontario Building Code Act, The Fire Protection and Prevention Act and The Ontario Municipal Act by bylaw appointed Township Officers

Whereas Section 8, of the Municipal Act, 2001, S.O. c. 25, as amended provides that the powers of a municipality should be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

Whereas Section 10 (2) subsection (8) of the Municipal Act, 2001, S.O. c. 25 as amended states that a municipality may pass bylaws respecting protection of persons, property including consumer protection.

Whereas Section 436 of the Municipal Act, 2001, S.O. c. 25 provides a municipality power to pass a bylaw providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection; and,

Whereas Sections 435, 437 and 438 of the Municipal Act, 2001, S.O. c. 25, set out additional powers and restrictions in regards to entry; and,

Whereas This bylaw applies to any Township of Billings Bylaw without the power of entry provisions passed pursuant to the Act or its predecessors; and,

Whereas Section 19 of the Fire Protection and Prevention Act, 1997, S.O. c. 4 states that an Inspector, upon producing proper identification may, without warrant, enter and inspect land and premises for the purposes of fire safety; and,

Whereas Section 15.2 of the Ontario Building Code Act, 1992, S.O. 1992, c.23 states that a building inspector, upon producing proper identification, may enter onto any property at any reasonable time without a warrant for the purpose of inspecting the property to determine whether the property conforms with standards prescribed in the bylaw or whether an order has been complied with.

Whereas the Township of Billings wishes to pass a bylaw allowing for Staff, the Bylaw Enforcement Officer, the Building Inspector and the Fire Chief to enter on property to enforce the provisions of the appropriate bylaws and regulations associated with their respective duties or to perform maintenance or repairs on behalf of the Township; and,

Whereas the Township of Billings wishes pass a bylaw that respects the Charter of Rights and Freedoms Section 8 regarding search and seizure of Township residents when appointed officers are performing the responsibilities of their respective positions.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BILLINGS HEREBY ENACTS AS FOLLOWS:

1.0 Definitions

- 1.1 "Building" means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment and includes a carport.
- 1.2 "Building Code Act" means the Building Code Act, 1992, S.O. 1992, c. 23 as amended.
- 1.3 "Building Inspector" is a person who is duly appointed by the Township of Billings Council to enforce the Building Code Act and the Property Standards Act.
- 1.4 "Bylaw Enforcement Officer" means a person duly appointed by the Township of Billings Council to enforce its bylaws.
- 1.5 "Council" means the Council of the Corporation of the Township of Billings.
- 1.6 "Dwelling" means a Building or structure or part of a Building or structure, occupied or capable of being occupied in whole or in part for the purpose of human habitation.

- 1.7 “Fire Chief” means a person who is duly appointed to manage and organize the members of the Billings Township Volunteer Fire Department and its equipment and to enforce the provisions of the Fire Prevention and Protection Act.
- 1.8 “Fire Prevention and Protection Act” means the Fire Prevention and Protection Act 1997, S.O. 1997 c. 4 as amended.
- 1.9 “Land” means any private property, premises, grounds, yards or vacant lots and any building or structure thereon not actually used as a Dwelling.
- 1.10 “Inspector” means the Fire Marshall, assistant to the Fire Marshall or a Fire Chief or designate.
- 1.11 “Municipal Act” means the Ontario Municipal Act 2001, S.O 2001, c. 25 as amended.
- 1.12 “Occupant” means a person who resides or is present in a house, vehicle, seat, space etc. at any given time.
- 1.13 “Officer” means an officer of the O.P.P., a conservation officer of the Ministry of Natural Resources and Forestry, a Bylaw Enforcement Officer, a Building Inspector or a Fire Chief or designate.
- 1.14 “Place” means a portion of space available or designated for or being used by someone and/or a particular position or a point in space.
- 1.15 “Power of Entry Policy” See Schedule “B” of this Bylaw.
- 1.16 “Property Owner” means the person or company that has owner’s rights to a property such as a block of land or a building and who is responsible for paying of any rates or taxes that may arise.
- 1.17 “Tenant” means a person who occupies land or a building that is rented from a property owner.
- 1.18 “Township” means the Corporation of the Township of Billings.

2.0 Application

- 2.1 This Bylaw applies to all Billing Township bylaws passed under the authority of the Municipal Act.

3.0 Entry and Inspection

- 3.1 Persons who have been appointed by the Township to enforce the Townships bylaws shall be allowed to exercise their duties as identified in the Municipal Act subject to the provisions of the Township of Billings Power of Entry and Enforcement Policy (see Schedule “B”), unless the provisions of section 438 of the Municipal Act are required to be invoked or in circumstances where there is a bylaw contravention actively occurring or when there is an immediate need concerning public health and safety or property damage.
- 3.2 Persons who have been appointed by the Township to enforce the provisions of the Building Code Act or the Property Standards Bylaw on behalf of the Township shall be allowed to exercise their duties as identified in the Building Code Act.
- 3.3 Persons who have been appointed by the Township to enforce the provisions of the Fire Prevention and Protection Act shall be allowed to exercise their duties as identified in the Fire Prevention and Protection Act.
- 3.4 That staff/persons performing maintenance or property standards bylaw work on behalf of the Township shall be allowed to perform their duties subject to the Township of Billings Power of Entry and Enforcement Policy unless there is an immediate threat to public health and safety or property damage.
- 3.5 for the purposes of an inspection, an Officer may:
- 3.5.1 Require the production of documents or things relevant to the inspection;
- 3.5.2 Inspect and remove documents or things relevant to the inspection for the purpose of making extracts;
- 3.5.3 Require information from any person concerning a matter related to the inspection; and
- 3.5.4 Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.
- 3.6 A sample taken under section 3.5.4 shall be divided into parts, and one part shall be delivered to the person from whom the sample was taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

- 3.7 If a sample is taken under section 3.5.4 and the sample has not been divided in two parts, a copy of any report on the sample shall be given to the person from who the sample was taken.
- 3.8 A receipt shall be provided for any document or thing removed under section 3.5.2 and the document or thing shall be promptly returned after the copies of the extracts are made.
- 3.9 Copies of extracts from documents or things removed under Section 3 and certified as being true copies of extracts from the originals by the person who made them admissible in evidence to the same extent as, and have the same evidentiary value as the originals.
- 3.10 The Township shall restore the Land/Dwelling to its original condition insofar as is practicable, shall provide compensation for any damages caused by the entry or by anything done on the Land/Dwelling except where entry is under Section 466 of the Municipal Act or is under Part XI of the Municipal Act, if under that Part, the treasurer registers a notice of vesting, in the name of the Township, in respect of the Land and/or the Dwelling.

4.0 Enforcement

- 4.1 Provisions of the Township of Billings Power of Entry Enforcement identified in Schedule "B" shall be utilized as a guideline for enforcement.
- 4.2 No person shall attempt to hinder or obstruct or hinder or obstruct an Officer who is exercising a power or performing a duty under this bylaw.

5.0 Penalty

- 5.1 Any person who contravenes a provision of this Bylaw is guilty of an offence and upon conviction is liable to pay a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. p.33 as per Schedule "A" of this bylaw.
- 5.2 Upon conviction, in addition to any other remedy and to any penalty imposed by this bylaw, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 5.3 Where a person fails to do a matter or thing as directed or required by an Officer or other person, pursuant to this Bylaw or other Township of Billing's bylaws or the Municipal Act, the matter or thing may be done by the Township at that person's expense which associated costs may be added to the tax roll of the person to be collected the same as property taxes.

6.0 Severability

- 6.1 If a court of competent jurisdiction should declare any section or part of a section of this bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this bylaw and it is hereby declared that the remainder of this bylaw shall be valid and remain in force.

7.0 Conflicts

- 7.1 This Bylaw shall apply in addition to the provisions of any other Township of Billings Bylaw and the Municipal Act, provided that in event of conflict, the provisions of any other Township Bylaw or the Municipal Act shall be paramount over this bylaw, provided such provisions are not contrary to law.
- 7.2 nothing in this Bylaw shall limit any other statutory or common law rights of the Township or any Officer entering onto Land or a Dwelling.

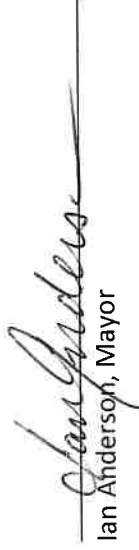
8.0 Short Title

- 8.1 This Bylaw shall be cited as the Enforcement of Acts, Bylaw and Regulations.

9.0 Enactment

- 9.1 This bylaw shall come into force and effect upon the final passing thereof.

Read for the first, second and third time and enacted this 19th day of July 2021.


Ian Anderson, Mayor


Kathy McDonald CAO/Clerk



Schedule "A"

Set Fines Schedule

The Corporation of the Township of Billings

Bylaw 2021- 28

Bylaw to Regulate the Enforcement of Bylaw, Acts and Regulations

Part 1 Provincial Offences Act

| ITEM | Short Form Wording | Provision Creating or Defining Offence | Set Fine |
|------|--|--|----------|
| 1 | Attempt to obstruct or hinder an Officer | 4.2 | \$500.00 |
| 2 | Hinder or obstruct an Officer | 4.2 | \$500.00 |

NOTE: The penalty provision for the offences indicated above is section 4.1 of the Bylaw 2021-21, a certified copy of which has been filed.



Schedule "B"

Corporation of the Township of Billings

Bylaw 2021-28

Bylaw to Regulate the Enforcement of Bylaws, Acts and Regulations

Power of Entry and Enforcement Policy

Purpose

The purpose of this policy is to identify the procedures to be followed by the various persons and staff who are appointed by Council to enforce bylaws or provincial acts or regulations or by persons hired by the Township to perform work when entry onto land or entry into a dwelling is required.

The objective is to ensure that Township bylaws and Provincial Acts and Regulations are enforced in a manner that encourages voluntary compliance when violations are reported or identified and that enforcement proceedings are only utilized when there is a wilful non-compliance or ambivalence towards compliance.

Process

The process of activating an investigation will be based off of the following:

- 1) Verified complaint.
- 2) Officer observation.
- 3) Regulatory requirement.

Responsibilities

Building Inspector, Bylaw Enforcement Officer, Fire Chief/Designate

- 1) Shall provide 24-hour notice (when reasonably possible) via telephone, text, email or letter to a property owner/tenant when entry onto Land is required to provide educational information, inspect or gather evidence, discuss potential violations or to issue orders or citation.
- 2) Shall provide identification to the property owner/tenant upon entering onto Land.
- 3) Shall, when possible, provide written/electronic information pertaining to the purpose of entering onto Land.
- 4) Shall, when entering onto a property that has a domestic animal bio-security program in place, abide by the requirements of the Property Owners bio-security protocols.
- 5) Shall, when possible, notify the property owner/tenant of additional appointed officials or police accompaniment.
- 6) Shall perform courtesy or enforcement visits to property owners/tenants between the hours of 8:00 AM and 9 PM.
- 7) Shall only enter into a dwelling or other structure with verbal permission from the property owner/tenant or when exercising a warrant issued under the Municipal Act or as prescribed in the Building Code Act or the Fire Prevention and Preservation Act
- 8) Shall enter onto Land without notice when there is an active contravention of a provision Township bylaw occurring or when there is an active contravention of a provision of an Act or Regulation is occurring.
- 9) Shall enter onto a Land without notice when there is an immediate threat to public health and safety and/or property damage.

Township Employees

- 1) Shall provide 24-hour notice (when reasonably possible) via telephone, text, email or letter to a property owner/tenant when entry onto Land is required to perform repairs to Township infrastructure or if there is a need to discuss issues relating to Township business.
- 2) Shall only enter into a Dwelling upon receiving consent from the Property Owner/Tenant.
- 3) Shall, when entering onto a property that has a domestic animal bio-security program in place, abide by the requirements of the Property Owners bio-security protocols.
- 4) Entry onto a property shall be done between the hours of 8:00 AM and 9:00 PM whenever possible.
- 5) Shall enter onto Land without notice when there is an immediate threat to public health and safety and/or property damage.