



Box 338, 2101 20th Ave
Bowden, Alberta, T0M 0K0

Town of Bowden – Province of Alberta

Policy Document (05 -2023)

BYLAW ENFORCEMENT POLICY

1 INTRODUCTION

All municipalities have the authority to regulate, prohibit and impose requirements for municipal purposes, by bylaw, across a range of various matters within the community.

Bylaw enforcement refers to actions that may be taken by the Town to ensure compliance with municipal bylaws.

To enforce bylaws municipalities may engage in a range of activities such as:

- educating the public about regulatory rules,
- conducting inspections to ensure rules are being followed,
- mediating between members of the public,
- encouraging voluntary compliance with the rules,
- applying formal consequences for contraventions where compliance is not forthcoming.

This policy states the governing principles of bylaw enforcement and further provides guidance on actions that may be taken by the Town to ensure that persons comply with Town bylaws.

2 PURPOSE

The purpose of this policy is to:

- outline in a public manner the objectives of the Town's bylaw enforcement policy and to set clear standards and expectations for bylaw enforcement,
 - establish common procedures for accepting, processing, and investigating bylaw complaints,
 - provide outline procedures for bylaw enforcement,
 - maintain public confidence and manage public expectations while promoting transparency, fairness, and integrity.
-

3 DEFINITIONS

Administration

Means the personnel (and other resources) that provide for the day-to-day operation and control of the municipality and who have responsibility to ensure that the policies and programs of the municipality are implemented.

Bylaw

Is an adopted bylaw made by resolution of the Council of the Town of Bowden in accordance with Part 2 (Bylaws) of the Municipal Government Act.

CAO (Chief Administrative Officer)

Is the person appointed by Council into the position of Chief Administrative Officer for the Town of Bowden in accordance with the MGA and is the administrative head of the Municipality (and includes any person given designated responsibilities by the CAO).

Designated Officer

Means a person to whom the CAO has delegated powers, duties or functions as permitted under the authority of the MGA or any other person with powers enabled under any other order or enactment, including but not limited to:

- a) any person appointed by the Town as a Bylaw Enforcement Officer,
- b) a Red Deer County Inspector or Compliance Officer empowered under an intermunicipal collaboration agreement,
- c) any Inspector appointed by a Minister with responsibilities defined or authorized under enactment,
- d) any person by virtue of appointment to another office, including but not limited to, RCMP Officers, Customs & Excise Officers, a Peace Officer (contracted or otherwise), a Sheriff or Fish & Wildlife Officer.

Council

Means the duly elected Municipal Council of the Town of Bowden.

MGA

Means the Municipal Government Act, RSA2000, Chapter M-26.

Municipality

Means the Town of Bowden.

Person

Means:

- a) an individual (resident / non-resident or visitor),
- b) customers, suppliers, agents, and contractors,
- c) a legal entity or business entity, including a firm, developer, contractor, association, partnership, society, or corporation,
- d) unless the context otherwise requires, this does not include the Town.

Provincial Offences Procedure Act

Means the Provincial Offences Procedure Act, RSA2000, Chapter P-34.

Town

Means the municipal corporation of the Town of Bowden, its administrative staff, and designated officers.

Words (interpretation)

- a) “may” is to be interpreted as permissive (allowed but not obligatory, optional).
- b) “must” is to be interpreted as imperative (obligatory, mandatory, required, unavoidable).
- c) “shall” is to be interpreted as “must”.
- d) “should” is to be interpreted as a recommended (desirable, not required to conform).
- e) “including but not limited to” means when listing a number of items, does not limit the bylaw term to only those words or those items listed.

4 LEGISLATIVE POWERS (a summary of enactments)

4.1 General Jurisdiction to Pass Bylaws

The MGA provides general jurisdiction to a municipality to pass bylaws, as follows:

Section 7 states that a council may pass bylaws for municipal purposes respecting the following matters (reproduced as follows):

- (a) the safety, health and welfare of people and the protection of people and property,*
- (b) people, activities, and things in, on or near a public place or place that is open to the public,*
- (c) nuisances, including unsightly property,*
- (d) transport and transportation systems,*
- (e) businesses, business activities and persons engaged in business,*
- (f) services provided by or on behalf of the municipality,*
- (g) public utilities*
- (h) wild and domestic animals and activities in relation to them,*
- (i) the enforcement of bylaws made under this or any other enactment, including any or all of the following,*
 - (i) the creation of offences,*
 - (ii) for each offence, imposing a fine not exceeding \$10 000 or imprisonment for not more than one year, or both,*
 - (iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll, or charge that is associated with the conduct that gives rise to the offence,*
 - (iv) providing that a specified penalty prescribed under section 44 of the Provincial Offences Procedure Act is reduced by a specified amount if the penalty is paid within a specified time,*
 - (v) providing for imprisonment for not more than one year for non-payment of a fine or penalty,*
 - (vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention,*
 - (vii) providing for inspections to determine if bylaws are being complied with,*
 - (viii) remedying contraventions of bylaws.*

4.2 Enforcement

The MGA provides various powers and authority to a municipality to enforce bylaws.

4.3 General Offences

Section 557 of the MGA outlines the general offences within the legislation and states that any person who does not comply with the provisions of the Act or any person who obstructs or hinders any person in the exercise of the persons powers is guilty of an offence.

4.4 Inspections

Section 542 of the MGA provides provisions for municipal inspections and enforcement, reproduced as follows:

542(1)

If this or any other enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced, or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement, or action,

- (a) enter on that land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the enactment or bylaw,*
- (b) request anything to 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.*

4.5 Remedial Orders

Section 545 of the MGA provides provisions to remedy contravention by order, reproduced as follows:

545(1)

If a designated officer finds that a person is contravening this or any other enactment that the municipality is authorized to enforce or a bylaw, the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.

545 (2)

The order may:

- (a) direct a person to stop doing something, or to change the way in which the person is doing it,
- (b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw, and, if necessary, to prevent a re-occurrence of the contravention,
- (c) state a time within which the person must comply with the directions,
- (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

4.6

Section 44 of the Provincial Offences Procedure Act, states

A local authority may make bylaws and, in the case of an improvement district or a special area, the Minister responsible for the Municipal Government Act or the Special Areas Act, as the case may be, may make orders,

- (a) respecting the offences under a bylaw or ministerial order, as the case may be, in respect of which a voluntary payment may be made,
- (b) prescribing the amounts of the specified penalties payable in respect of offences referred to in clause (a).

5 GENERAL POLICIES

General policies for bylaw enforcement within the Town are as follows:

5.1

The Town will conduct patrols to monitor and ensure bylaw compliance is maintained.

A case file may be opened, which will include documented records (and photos) being kept of all conversations, and actions taken. Typically, this will be done by the Bylaw Enforcement Officer.

5.2

Prior to any formal enforcement proceedings, the Town will attempt to seek voluntary bylaw compliance, resolving matters informally using generally accepted mediation and dispute resolution methods.

The Town's enforcement model follows a general approach which is typically as follows:

- communication,
- education,
- collaboration,
- compliance.

5.3

Typically, in the first instance a written or verbal warning informs the recipient that they are contravening a specific bylaw requirement and the warning will recommend a course of action to achieve compliance.

Written and verbal warnings create a formal record of non-compliance and in cases where a warning is ignored or repeated this may lead to an escalated enforcement response.

5.4

It is the policy of the Town to work considerately in collaboration with all parties on any matter that adversely affects community living in order to arrive at an effective and agreeable voluntary solution.

The overall philosophy is to resolve issues or complaints through a process of community engagement and education with the overall aim of ensuring that all bylaws are followed by everyone for the benefit of all residents within our community.

5.5

Progressive enforcement actions through ticketing, fines, remedial orders, and other sanctions will be imposed where voluntary compliance is not forthcoming.

5.6

All complaints and bylaw contravention matters will be considered on their own merit, without precedent, and any response will be appropriate to the scale of the matter / non-compliance.

5.7

Where deemed necessary or appropriate formal enforcement procedures may be applied at the onset in response to a bylaw contravention.

5.8

The Town is not required to become involved with or mediate disputes between individuals where the matter in dispute is of a civil nature.

6 BYLAW CONTRAVENTION INVESTIGATIONS

6.1

The CAO or a Designated Officer may conduct compliance, and enforcement action in general within the provisions of this policy, but any action ultimately remains discretionary based on:

- i. priorities,
- ii. previous decisions on similar complaints,
- iii. urgency,
- iv. community impact,
- v. public health and safety,
- vi. impact on Town liability,
- vii. environmental considerations,
- viii. available resources.

6.2

Bylaw contravention investigations can be initiated on received public complaints.

6.3 Public Complaints

A complaint of a bylaw contravention must be submitted in writing by email, mail, or using the online portal.

Complaints made in person by visiting the Town Administration Office will require the complainant to submit details of the complaint in writing using the Bylaw Complaint Form (or any other form as deemed effective or relevant by the Town).

In all cases clear and specific details must be provided as to the nature of the complaint including a description of the alleged contravention.

In all cases the complainant must provide their contact details and must sign any complaint form and / or provide evidence that proves their identity.

Anonymous complaints will not be dealt with.

All complaints must be transparent, factual, fair, respectful, and impartial with no impropriety or appearance of bias, deception, or untruth.

6.4 Handing

All complaints will receive due consideration.

A case file will be opened, and records maintained of all conversations / actions taken.

All complaints received will be treated considerately and fairly. Feedback and / or a response (acknowledgement) will be given to all complainants.

Complaints will be responded to as promptly as possible. If an immediate solution cannot be provided a response will be given (acknowledgement) until all the information is available to allow a formal response to be made by the Town.

The CAO or Designated Officer will maintain regular contact on the status of any ongoing investigation according to developments as they occur or as deemed pertinent or necessary.

6.5 Investigation

On receipt of a valid complaint (submitted correctly and in accordance with the provisions of section 6.3 of this policy) the CAO or Designated Officer will conduct a preliminary assessment to determine if:

- i. the complaint is valid,
- ii. the matter relates to a specific infringement of a Town bylaw,
- iii. it is within the jurisdiction of the Town of Bowden*.

*matters of criminal law or civil law (for example, people's relationships, private property, business arrangements) are not within the jurisdiction of the Town.

Any investigation may include a review of property ownership, relevant bylaws, a site investigation, further contact with the complainant and any other affected third party.

The Town will not investigate a matter further if it is determined that no contravention exists, or the issue is a civil or criminal matter.

In such cases the complainant will be informed of the decision not to investigate the matter further.

Note: in some cases, there may be contravention that is within the jurisdiction of both the Town and another agency in which case a joint investigation and enforcement may occur.

6.6 Use of discretion

6.6.1

The CAO or Designated Officer may exercise discretion on whether to investigate a complaint.

Factors that can be considered include, but are not limited to:

- i. the nature and urgency of the complaint or alleged contravention,
- ii. the impact of the contravention on the complainant, other persons, and the community,
- iii. frivolous, repeat, or vexatious complaints,
- iv. previous decisions and precedents made on similar complaints,
- v. the resources available to resolve the matter.

6.6.2

Focus will be given to balancing fairly the interest of both the complainant and the individual / parties who are the subject of the complaint.

The CAO retains the discretionary right not to intervene in civil matters where these are disputes between individuals.

6.6.3

Where new information is received, or a new issue is raised, the CAO may decide to respond and further investigate a matter, subject to the process and procedures within this policy.

6.7 Frivolous / Vexatious / Unreasonable Complaints

6.7.1

The CAO retains the discretionary right to restrict further contact with a complainant where a matter is deemed to be frivolous, vexatious, or unreasonable (in nature or behaviour).

6.7.2 Definitions

Frivolous complaints are defined as having little or no legal merit.

Vexatious complaints are defined as being initiated maliciously, without probable cause, or not in good faith.

Unreasonable complaints are complaints made in an unreasonable manner.

6.7.3

Frivolous, vexatious and / or unreasonable or persistent complaints may consume a disproportionate amount of Town / Administration time and can compromise the ability of Town employees to deliver customer service efficiently and effectively.

Any action taken in response to frivolous, vexatious and / or unreasonable matters will be specific to each case.

6.7.4 Examples of Frivolous and Vexatious Complaints

Including but not limited to:

- submission of high-volume frequency of requests / telephone calls or emails,
- requests to reopen issues that have already been dealt with,
- where the complaint is designed to cause maximum inconvenience, disruption, or annoyance,
- where the complaint would impose significant financial impact on the Town,
- where the complaint lacks any serious purpose or value,
- where the complaint combines or mixes accusations, claims, allegations, or blame.

6.7.5

Where complaints are made in an unreasonable manner factors for consideration include whether the behaviour of the complainant is likely to cause distress, disruption, or irritation, without proper or justified cause.

Ultimately a decision made to classify a person's behaviour as unreasonable may result in restricting their access to Town employees, services, or property.

Any decision made may be the result of a repeated pattern of conduct on several occasions or a single significant incident that requires immediate action to be made.

6.7.6 Examples of Unreasonable Behaviour

Including but not limited to:

- refusing to specify the details of the complaint in writing,
- changing the basis of the complaint as the matter proceeds,
- submitting false statements or documents,
- making excessive demands on the time and resources of Town employees,

- refusing to accept a decision / repeatedly arguing points with no new evidence,
- causing distress to staff including aggressive, intimidating, and hostile actions,
- bullying, harassment, and use of offensive and abusive language.

6.8

The safety of any Town employee or Designated Officer is considered to be important.

Verbal or physical threats and inappropriate behaviour will not be tolerated and may be escalated as follows:

- i. a disengagement of any further contact or communication,
- ii. referral to the RCMP,
- iii. civil or legal action.

6.9 Confidentiality.

All bylaw complaints, and enforcement proceedings are deemed to be confidential in nature. As such the identity of the complainant, any personal information they provide, and the complaint received will not be disclosed to members of the public.

Complainants must respect the Town's obligations and rights under the Freedom of Information and Protection of Privacy Act, Revised Statutes of Alberta 2000, Chapter F-25.

In the case of information requests made under the Freedom of Information and Protection of Privacy Act the determination of whether such information should be released can only be made by the person designated as the FOIP Coordinator within the Designated Officer Bylaw or the CAO.

Note: The anonymity of the alleged offender cannot be assured if the process of investigation deems it necessary to reveal all parties in order to bring about proceedings to resolve the matter.

7 BYLAW ENFORCEMENT

7.1

Where efforts at achieving voluntary compliance are unsuccessful or in cases where formal enforcement procedures are necessary at the onset, the CAO or a Designated Officer may enforce a bylaw to deter future instances of the behaviour or activity.

7.2

Enforcement may take the form of:

7.2.1

The issue of a Remedial Order to remedy the infraction in accordance with sections 545 and 546 of the Municipal Government Act.

The standard of proof for the imposition of a remedial order is "balance of probabilities" meaning that it is more than likely (51%) that a bylaw has been violated.

Remedial Orders require a person who has violated a bylaw to take specific steps to bring themselves or their property, into compliance with the bylaw or require them to stop doing something that is contrary to a bylaw.

Typically, there is no penalty fine associated with a Remedial Order, other than the potential for the municipality to charge any costs associated with remedying the contravention to the tax roll of the property owner.

Ultimately the goal is remediation and compliance.

7.2.2

The issue of a bylaw violation ticket and the imposition of a specific penalty for the contravention of a provision of a bylaw by virtue of both the MGA and the Provincial Offences Procedures Act.

Bylaw violation fines are determined within the bylaw regulation.

Bylaw Violation Tickets are typically used for straightforward violations or violations that occur at a high frequency such as parking violations, snow removal violations, or simple animal control violations.

Bylaw violation tickets are only issued in cases where the offence has occurred “beyond reasonable and probable doubt” meaning that there is a 99% certainty that every element of the offence has taken place.

7.2.3

The issue of an unspecific “administrative” penalty applied at the discretion of the CAO. These penalties can vary and reflect the seriousness of the contravention.

Administrative penalties are determined by the CAO on a case-by-case basis.

Factors that are considered in deciding the amount of an administrative penalty are:

- i. the severity of the contravention and the scale of adverse effects caused by it,
- ii. the degree of willfulness or negligence in the contravention,
- iii. what steps have been taken to prevent the contravention or its reoccurrence.

Administrative penalties are intended for more serious bylaw contraventions with the maximum fine determined by the CAO subject to any maximum amount imposed by the MGA (currently \$10,000.00).

Administrative penalties are only issued in cases where the offence has occurred “beyond reasonable doubt”.

7.2.4

Any other remedial and enforcement action permitted by virtue of the provisions and authority enacted within the MGA (including the collection of all lawful expenses and costs).

7.2.5

Civil proceedings through application to the courts for an injunction or court order to enforce or restrain a bylaw contravention.

Note: A person who is guilty of an offence under the MGA may also be liable in a civil proceeding.

8 ENFORCEMENT APPEALS

8.1

Any person who is the recipient of a bylaw enforcement action will be given the “opportunity to be heard” as part of an appeal process.

A summary of the appeal process for each type of enforcement is provided below:

8.2 Order to Remedy

A person in receipt of a Remedial Order may by written notice, request Council to review the Remedial Order in accordance with the provisions within sections 547 and 548 of the MGA.

8.3 Bylaw Violation Ticket

Where a bylaw violation ticket has been issued the appeal should be made in accordance with the terms of issue, the appeal time frame and options provided on the violation ticket.

8.4 Administrative Penalty

8.4.1 Initial Appeal

Where an “administrative” penalty has been issued by the CAO the initial appeal should be made in writing to the CAO.

The appeal process may vary according to the type of enforcement and the complexity of the case.

Generally straightforward cases with minimal complexity can be conducted by email or telephone call.

For more complex cases a more formal hearing conducted “in person” may be necessary.

Any final decision on an “initial” appeal will be made by the CAO.

8.4.2 Appeal Committee

If the initial appeal process does not provide a satisfactory outcome the person who considers themselves to be aggrieved by the decision of the CAO may appeal the decision to an Appeal Committee providing that an appeal notice is submitted in writing to the CAO within 30 days of the CAO's decision made under 8.4.1.

The appeal process will consist of a formal hearing conducted “in person”. The complainant must attend the appeal hearing.

During the appeal hearing both parties may elect to have another person attend the meeting in a support capacity, as a legal advisor or independent witness.

The Appeal Committee will decide on any appeal within 30 days of its receipt.

The Appeal Committee's decision in respect of an appeal will be final and binding.

8.5

An appeal against any other remedial and enforcement action made by virtue of the provisions and authority enacted within the MGA must be made according to the appeal procedures that exist with the statutes (or bylaw) or the body that exists for the purpose of deciding on such matters.

In cases where there is no apparent appeal process within the legislation, or an appeal body does not exist the procedures provided in section 8.4 above apply.

Note:

Where a Provincial Violation Ticket has been issued (by a Peace Officer) the appeal should be made in accordance with the terms of issue, the appeal time frame and options provided on the violation ticket.

9 APPLICABILITY

9.1

This policy applies to all persons within the Town of Bowden

9.2

The CAO will provide direction where necessary in order to meet the requirements of this policy and may implement additional procedures or processes where necessary to ensure that bylaw enforcement is conducted fairly, with appropriate authority, in accordance with this policy and in line with the Town's core values.

9.3

Exceptions (either permanent or temporary) to any provision within this policy:

- i. are at the discretion of the CAO, due to special circumstances, arrangements or need,
- ii. may apply to any Designated Officer or person acting under authority, or agreement or in the normal course of their official duties, for example: Peace Officers, RCMP, Fire Department.
- iii. are as stated in this policy.

9.4

No person shall obstruct, hinder, or interfere with any Designated Officer while exercising or performing their duties or powers pursuant to the provisions of this policy, any Town bylaw, or any other legal or statutory enactment.

10 POLICY REQUIREMENTS

The following requirements form part of this policy.

- i. this policy should receive an annual review of its relevancy, effectiveness, and completeness,
 - ii. appropriate actions should be taken to implement changes as required or deemed necessary following any matter or review of bylaw enforcement activities.
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11 REFERENCES

11.1

References should be made where necessary to any relevant or applicable statutory enactment, including but not limited to the:

- i. Municipal Government Act, RSA2000, Chapter M-26,
- ii. Provincial Offences Procedures Act, RSA2000, Chapter P-24,
- iii. Freedom of Information and Protection of Privacy Act, RSA2000, Chapter F-25,
- iv. Town of Bowden Bylaw Enforcement Officer Bylaw 05 / 2020
- v. Town of Bowden Designated Officer Bylaw 04 / 2020
- vi. any other applicable or relevant Town bylaw, policy, order, or CAO directive.

11.2

All references in this policy to an act, statute, regulation, or bylaw refer to the current version of that enactment, as amended or replaced from time to time including all successor legislation.

12 SUPPLEMENTARY INFORMATION

12.1 Information & Enquiries

All enquiries regarding bylaw definitions, applicability or enforcement should be addressed to the CAO.
Email: cao@bowden.ca

12.2

Amendments to this policy can only be made by the Chief Administrative Officer.

This policy should be reviewed at any time that the CAO considers appropriate to do so, to ensure that it remains current, effective, and accurate.

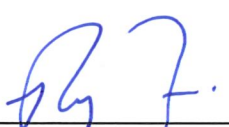
12.3 Policy Specifics

Policy Number	05 / 2023
Policy Title	Bylaw Enforcement Policy
Policy Type	Administration Policy
Supersedes / Revokes	n/a (new policy)
Policy Passed	By CAO (29 / 08 / 2023)
Date Effective	Immediate upon signing by CAO
Policy Review Date	Annually or as required or determined by CAO
Distribution:	Bylaw Enforcement Officer Red Deer County Protective Services Town of Bowden Web Site Other (by request)

12.4 Policy Revision History

Date	Description of Change	Section	Approved by
13 Sept 2023	Use of new Bylaw Complaint Form	6.3	CAO Rudy Friesen

12.5 Signed:



 Rudy Friesen
 Chief Administrative Officer