



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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## Legislation Details (With Text)

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**Title:** Private use of Public Land - Docks Update - Staff Report No. CSS-20-002  
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## REQUEST FOR DIRECTION

**DATE:** January 8th, 2020      Report No. CSS-20-002  
**TO:** Laurie Hurst, Chief Administrative Officer  
**FROM:** Blair McDonald, Director of Community Safety Services

### SUBJECT:

Private Use of Public Land - Docks

### ESSENTIAL QUESTION:

Does Council wish staff to continue with efforts to ensure Private Docks along the Gorge Waterway are in compliance with the Zoning Bylaw?

### RECOMMENDATION:

That the Committee of the Whole receive Staff Report No. CSS-20-002 for information and provide any additional direction to staff as the COTW considers advisable.

### BACKGROUND:

In January of 2018, staff presented a report to Council seeking direction in relation to enforcement of use of public lands by private entities. At that time, Council deferred the matter until after the completion of the Official Community Plan.

In March of 2019 staff received direction from Council to initiate a process wherein all owners of docks which were not in compliance with Federal/Provincial/Municipal requirements were to be advised of the requirements of dock siting and ownership and further, that they initiate the required steps to comply with regulations or face potential municipal bylaw enforcement action. Additionally, those persons who owned a dock that was attached to Township land were to be offered the

opportunity to enter into an agreement with the Township to allow them to continue to access their dock via Township land, and further that they initiate the required steps to comply with regulations or face potential municipal bylaw enforcement action.

Staff, through legal counsel, initiated a regime which would allow property owners whose land abutted Township land along the Gorge waterway to enter into a Licence of Use and Occupation Agreement. The Agreement would allow those land owners who had possession of a dock in the Gorge that was attached to Township land, the option, provided certain conditions were met, to continue to access that dock by crossing over Township land and also allow their dock to remain attached or anchored to Township land.

Staff sent letters to property owners which have docks attached to their own land, advising of the provincial requirements for having private moorage in the Gorge, as well as Township requirements to have the water on which their dock sits rezoned to allow for siting of a dock. To those property owners which had a dock attached to Township land, a similar letter was sent advising of Provincial and Township requirements, as well as a copy of the Licence of Use and Occupation Agreement. A meeting was held with interested property owners in November of 2019 to discuss the requirements surrounding the Agreement.

Since the letters have been sent, Council has advised staff they wish to reconsider their direction relating to enforcement of docks at a Committee of the Whole meeting.

## **ISSUES:**

Council has considered the importance of public lands and the need to ensure they remain in the public realm. Council has recognized the need for a process which ensures that Public Lands remain firmly in the public realm and that any encroachment should be governed by formal agreement. On the other hand, Council has heard from property/dock owners who, in many cases, have owned the property for a lengthy period of time and had a dock attached to the property for decades.

Historically, there have been sporadic enforcement efforts on a few of these properties and no enforcement in relation to others. No enforcement action taken thus far has resulted in the removal of private moorage. There are numerous enforcement options that were presented to Council with Council electing to allow time for owners to bring their docks into compliance with various regulations. A review of enforcement strategies of surrounding municipalities has shown the following:

View Royal: Enforcement is conducted on a case by case basis and is complaint driven. View Royal rarely, if ever, receives complaints about existing docks. If someone wishes to build a new dock, they are required to obtain an Environmental Development Permit and to follow all Provincial and Federal regulations in relation to the construction and siting of the dock.

Saanich: Enforcement is conducted on a case by case basis and is complaint driven. At present, Saanich refers all complainants with a concern relating to private moorage to the Province as the Gorge is Provincial jurisdiction. Building of a new dock requires compliance with Federal/Provincial and Municipal regulation.

Victoria: The vast majority of Victoria's shoreline on the Gorge is commercial in nature and has many docks/marinas. There is some private moorage which Victoria has received no complaints. Enforcement is conducted on a case by case basis and is complaint driven. As Victoria has received no complaints, they have taken no action.

## **ALTERNATIVES:**

1. That the COTW receive Staff Report No. CSS-20-002 for information and provide any additional direction to staff as the COTW considers advisable.

2. That the COTW provide alternative direction to staff.
3. That the COTW request further information from staff.