



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Legislation Text

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### REQUEST FOR DECISION

**DATE:** August 13, 2019

Report No. ADM-19-026

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Anja Nurvo, Director of Corporate Services

**SUBJECT:**

Watercourse and Drainage Regulation Bylaw

**RECOMMENDATION:**

That Council give first, second and third readings to the Watercourse and Drainage Regulation Bylaw, 2019, No. 2971 as attached to Staff Report ADM-19-026.

**RELEVANT POLICY:**

Community Charter

Watercourse and Drainage Regulation Bylaw, 1998, No. 2332

**STRATEGIC RELEVANCE:**

Identify infrastructure repair and proactively plan for replacement needs

**BACKGROUND:**

The Township's current Watercourse and Drainage Regulation Bylaw, 1998, No. 2332 is obsolete and inadequate to ensure that any person contravening the Bylaw would be held responsible for the containment, cleanup and restoration of a spill or discharge of pollutants into the Township's drainage systems and all costs associated with those actions. The Bylaw also does not follow the standard requirements of procedural fairness, by providing a person the opportunity to be heard, nor does it specifically permit the Township to carry out the cleanup at the polluter's cost in the event the polluter fails to do so. The Township's drains and storm sewers discharge directly into the Harbour or Gorge Waterway, which are regulated by the Provincial Ministry of the Environment and the Federal Fisheries and Oceans. Updating of the Bylaw would reduce our exposure to third party claims arising from discharge of pollutants into our infrastructure.

The Township applied for and received a grant through the Risk Management Program of the Municipal Insurance Association (MIA). The grant was to cover legal services to assist the Township to prepare an updated bylaw to regulate our natural water courses, ditches, drains and storm sewers, to adequately address obligations and prohibitions relating to discharge and pollution, and to provide for enforcement options and full recovery of all costs of containment, cleanup and restoration from

the responsible person.

Bylaw No. 2971, a copy of which is attached, repeals the current Bylaw No. 2332. The changes in the new Bylaw 2971 include:

1. updating the language to comply with and refer to current regulations and requirements,
2. clarifying the situations in which the Director's discretion is appropriate,
3. expanding and clarifying the definition of contaminants and polluting substances that are prohibited from being discharged into the Township's watercourses or storm drains,
4. strengthening section 5 to create the requirement on persons to clean up and contain any polluting substance, and providing that if they do not do so, the Director has the authority to issue a remediation order,
5. providing the polluter the opportunity to fulfill the requirements before the Township is authorized to perform the work on their behalf and at their cost,
6. in accordance with the requirements of procedural fairness, giving the person an opportunity to be heard by Council prior to Council making an order to comply,
7. providing an exception for emergency situations by permitting Council to authorize a clean up of a discharge at an owner or occupier's expense without first hearing from the person,
8. increasing the fine amounts in accordance with the Community Charter, and
9. clarifying that the Bylaw may also be enforced through Bylaw Notices and Municipal Tickets.

## **ISSUES:**

### **1. Rationale for Selected Option**

Bylaw No. 2971 was prepared by our solicitors pursuant to a Risk Management Grant through MIA, for the purpose of strengthening our current Bylaw for the protection of the Township's watercourses or storm drains. Bylaw No. 2971 strengthens the Township's ability to hold the polluter responsible for all containment, cleanup and remediation, and provides that in the event the polluter fails to do so, the Township has the right to complete such cleanup and recover all the costs from the polluter.

### **2. Organizational Implications**

There are no organizational implications.

### **3. Financial Implications**

In the event of a discharge or spill of any pollutant into the Township's watercourses or storm drains, the new Bylaw will provide the Township with the tools required in order to hold the polluter responsible for all costs of cleanup.

### **4. Sustainability & Environmental Implications**

Bylaw No. 2971 has been updated to refer to current applicable environmental regulations, and updates and expands the definition of pollutants that are prohibited from being discharged into the Township's watercourses or storm drains.

### **5. Communication & Engagement**

Once adopted, a copy of the Bylaw will be posted to the Township's website for public information.

## **ALTERNATIVES:**

1. That Council give first, second and third readings to the Watercourse and Drainage Regulation Bylaw, 2019, No. 2971 as attached to Staff Report ADM-19-026.
2. That Council amend Bylaw No. 2971 and give first, second and third readings to Bylaw No. 2971 as amended.
3. That Council request further information from staff.