

## COUNCIL POLICY

<b>NAME:</b>	Screening Officer Bylaw Notice Policy		
<b>ISSUED:</b>	December 10, 2018	<b>INDEX REFERENCE:</b>	
<b>AMENDED:</b>		<b>COUNCIL REFERENCE:</b>	18/CNCL

### PURPOSE

To authorize Screening Officers established under the Bylaw Notice Enforcement Bylaw, 2018, No. 9525, to cancel Bylaw Notices in prescribed circumstances.

### BACKGROUND

Under authority provided in section 10 of the *Local Government Bylaw Notice Enforcement Act* (the "Act"), a Screening Officer must review all disputed Bylaw Notices before adjudication. Section 10(2)(a) provides that a Screening Officer has the authority to cancel a Bylaw Notice if, in the Screening Officer's opinion,

- (i) the contravention did not occur as alleged;
- (ii) the Bylaw Notice does not comply with section 4(4) of the Act; or
- (iii) a ground for cancellation authorized by the local government is satisfied.

This Policy establishes the grounds for cancellation under section 10(2)(a)(iii) of the Act.

### POLICY

1. A Screening Officer may cancel any Bylaw Notice in accordance with sections 10(2)(a)(i) and 10(2)(a)(ii) of the Act.
2. A Screening Officer is authorized to cancel and may cancel a Bylaw Notice under section 10(2)(a)(iii) of the Act if he or she is satisfied that one or more of the following reasons exist and the person is not willing to enter into a compliance agreement or a compliance agreement is not available for the offence:
  - a. Identity cannot be proven. For example:
    - i. the Bylaw Notice was issued to the wrong person; or
    - ii. a vehicle involved in the contravention had been stolen.
  - b. The person who was issued the Bylaw Notice was authorized to take the action as a result of an exception specified in a District of Saanich bylaw or other enactment.
  - c. The Bylaw Notice is not likely to be upheld in adjudication as alleged because the evidence is not adequate to prove a contravention took place.

- d. The contravention was necessary for the preservation of health and safety.
- e. The Bylaw Notice is one of a number of Bylaw Notices arising out of the same incident, in which case the Screening Officer may cancel all but the most appropriate Bylaw Notice.
- f. It is not in the public interest to proceed to adjudication for one or more of the following reasons:
  - i. The person who received the Bylaw Notice was permitted or entitled to take the action, but the issuing officer was not aware of this entitlement or permit;
  - ii. The person who received the Bylaw Notice was undergoing a personal tragedy at the time of the contravention such that it is not in the public interest to proceed;
  - iii. The Bylaw in question has changed since the Bylaw Notice was issued and now authorizes the contravention; or
  - iv. The person exercised due diligence in his or her efforts to comply with the Bylaw. For example: as a result of mechanical problems the person could not comply with the Bylaw.