

THE CORPORATION OF THE TOWNSHIP OF SABLES-SPANISH RIVERS

BYLAW NUMBER 2019 - 37

Being a Bylaw to Establish a Policy  
Respecting Liability Claims

WHEREAS Section 10 of the Municipal Act, 2001, as amended, authorizes municipalities to pass bylaws regarding accountability and transparency of the municipality, and for the health, safety and well-being of persons;

AND WHEREAS council deems it expedient to provide for a policy dealing with municipal liability claims;

NOW THEREFORE the Council of the Corporation of the Township of Sables-Spanish Rivers ENACTS AS FOLLOWS:

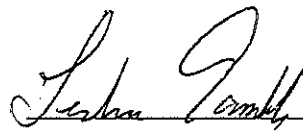
1. That the Liability Claims Policy is hereby adopted, and attached hereto as Schedule 'A' forming part of this bylaw.

READ A FIRST AND SECOND TIME THIS 14<sup>TH</sup> DAY OF AUGUST, 2019.

  
MAYOR - L. GAMBLE

  
ACTING CLERK - A. WHALEN

READ A THIRD AND FINAL TIME AND PASSED IN OPEN COUNCIL THIS 14<sup>TH</sup> DAY OF  
AUGUST, 2019.

  
MAYOR - L. GAMBLE

  
ACTING CLERK - A. WHALEN

## **Making a Claim against the Township of Sables-Spanish Rivers**

The Township's insurance provider will follow up with claims against the Township. Before submitting a formal claim, it is important to keep in mind the following:

- Making a claim against the Township is not the same as making a claim against your insurance. Making a claim through your insurance company means that you are taking advantage of your existing insurance coverage for your personal assets, via your insurance policy, whereas a claim against the Township requires an investigation to determine whether or not the Township is legally liable.
- If you have auto or property insurance, these should be the first avenues pursued in the event of a loss. Your existing insurance coverage may in fact be more extensive than any recovery that could be made from the Township. If your insurer believes the Township is responsible, they may seek to recover damages against the Township on your behalf.
- Making a claim against the Township is a legal process and will take time as an investigation will be conducted by the insurance adjuster to determine if the Township was negligent, causing the damage.
- Generally speaking, "negligence" involves the failure to meet the appropriate standard of care. For instance, if the Township is aware of a dangerous situation on its property and it does not take steps to fix it within a reasonable time, the Township might be found negligent if someone is hurt at that location. Similarly, the Township might also be negligent if it built something that was not constructed according to the standards in effect at that time.
- Please note that the Township only makes payment where the Township of Sables-Spanish Rivers is legally liable for the damage caused. Determination of liability is based on the presence of negligence on behalf of the Township.
- For property damage claims, if the Township is found negligent, the amount that you would receive in compensation is limited to current value and not replacement value and the Township will not reimburse for improvements beyond the condition of the property just before the damage occurred.
- The investigation of your claim must be completed before the Township will be in a position to consider any compensation with respect to repairs/costs. It is your decision if you choose to proceed with repairing damaged property prior to the outcome of your claim.
- The Township is committed to resolutions that are fair, reasonable, and in keeping with the Township's legal obligations. Although you may not get the answer you are seeking, our staff will treat everyone with respect and professionalism throughout the process.

### **How to File a Claim**

All claims must be submitted in writing on our Claim Submission Application by any of the following methods:

**Mail/Courier:** Township of Sables-Spanish Rivers  
11 Birch Lake Rd.  
Massey, ON P0P 1P0

**Email:** [inquiries@sables-spanish.ca](mailto:inquiries@sables-spanish.ca)

**Fax:** 705-865-2736

Please ensure to include all of the following details, which are required to properly open and assess your claim:

- Your name, home address, phone number and email address;
- A detailed description of the incident that caused the property damage, including the specific date, time and location;
- Contact information for any witnesses, Township staff and/or other parties with information that could help the Township understand what happened;
- Any supporting documentation, including photos, drawings, receipts, etc.; and
- If a Township contractor was involved please provide the contractor's name

### **The Claims Investigation Process**

All claims should be filed with the Township immediately following an incident or as soon as practical (ie: damage revealed after snow melts). Claims received by the township are logged and handled in the order in which they are received.

Once you have submitted your claim, the Township will send you an acknowledgement within 10 business days. The length of time to investigate will depend on the complexity and severity of the claim as well as the volume of claims received. A relatively straight forward claim may require up to 4 weeks to sufficiently investigate the matter. A more complicated claim may take several months to conclude.

While many claimants may feel that the Township is morally responsible for their loss, it is the question of legal liability that ultimately determines whether a claim is paid. The reliance on legal liability is the basis for the evaluation of claims and is in keeping with the provisions of the Township's insurance policies and reflects the same considerations that would inform a legal assessment in the court system. It serves to ensure that, while claimants may feel that the Township is morally responsible for their loss, all claims are considered fairly and in accordance with the same legal criteria.

### **Claims Involving Private Contractors**

The Township provides many services with its own staff. However, the Township also frequently enters into contracts with independent companies ("contractors") for the provision of services on the Township's behalf. These can include services like major construction projects, road work, snowplowing and garbage removal. The Township's agreements with these contractors contain a requirement that they must have liability insurance coverage. Should a claim be received by the Township whereby it is

determined that a contractor had control over the incident location at the time of the loss/damage, the Township will notify the claimant and will provide the name and contact information of the contractor involved so that they may pursue their claim directly with the contractor.

### **If Your Claim is Denied**

If the investigation determines that the Township is not legally liable, the insurance adjuster will provide written justification for this determination and explain the rationale behind the decision.

Notwithstanding the Township's efforts, some claimants will disagree with the assessment of the extent of the Township's legal responsibility for their losses. In such cases, claimants are free to commence formal proceedings before the courts in an effort to obtain compensation.

## Township of Sables-Spanish Rivers - Claim Submission Application

**Please note:**

All claims submitted to the Township will be forwarded to the Township's insurance provider for investigation on the basis of the presence of legal liability or a legislative or regulatory requirement. Please note that payment will only be made where the Township of Sables-Spanish Rivers is legally liable for the damage caused.

Should you wish to seek immediate compensation for the damages sustained, you may want to speak to your insurer to see whether compensation is available under your existing insurance policy (i.e. auto or home insurance). Your insurance company or broker can provide advice on how to deal with the repairs. Furthermore, if your insurer believes that the Township is responsible, they may seek to recover against the Township, on your behalf.

For vehicle damage claims specifically, if repairs are required to your vehicle, we strongly recommend you contact your auto insurer for immediate assistance in this regard. As noted above, the investigation of claims may take some time and, even where the Township is legally liable, compensation will only be provided for the depreciated value of the damaged item(s).

Once you have submitted your claim, the Township will send you an acknowledgement within ten business days. Please allow time for a thorough investigation of your claim after receiving the acknowledgement. Once the investigation is complete, the Township will provide you with a written response from the insurance adjuster.

**Instructions:**

1. Complete the following details for the claim you are submitting.

2. All fields are mandatory unless indicated otherwise

If you have any questions regarding this form, please contact the Township Office, 705-865-2646

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**Incident Location**

Street Name

Nearest Cross Street

**Incident Details**

Date of Event (DD/MM/YYYY)

Time of Event (indicate AM or PM)

Provide the specific details regarding the incident that caused the property damage, etc. below. Attach any photos or drawings

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Please indicate below if this incident occurred in relation to construction activity

- Yes
- No

If Yes, please provide any available details regarding the area and/or contractor involved

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**Contact Information for other parties/witnesses:**

**#1**

Last Name

First Name

Email

Phone Number

Street Number

Street Name

Town/City

Province

Postal Code

**#2**

Last Name

First Name

Email

Phone Number

Street Number

Street Name

Town/City

Province

Postal Code

Add contact information for any additional parties/witnesses if required

**Acknowledgement**

- I confirm that the information provided is true and correct to the best of my knowledge. I authorize the Township of Sables-Spanish Rivers to use the above information to process and assess this claim. The collection of personal information on this form is necessary for the administration and management of the Township's claims and insurance processes. Information contained on this form will be used by authorized Township staff for the above-noted purposes, and may be shared with the Township's insurance provider or any other party as required by law. Questions regarding this collection should be addressed to the Township of Sables-Spanish Rivers Clerk-Administrator.

**Claimant Name**

**Claimant Signature**

**Date**

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**TOWNSHIP USE ONLY:**

Date Received

Township Signature