

BY-LAW ENFORCEMENT POLICY

1.0 PURPOSE AND GOALS

- 1.1 The purpose is to set a formal policy and consistent approach to the governing and handling of municipal by-law complaints, through prompt, courteous and thorough administration that can be supported by staff and clearly communicated to members of the public.
- 1.2 The municipality is committed to the delivery of municipal law enforcement services in a timely and effective manner. The goal of these services is to achieve compliance with municipal by-laws through cooperation and education as the preferred solution. All violations should be approached with this intent, and the cooperation of the offender should be sought first in every instance.
- 1.3 The municipality shall operate on a reactive complaint-based process in regard to municipal law enforcement with the exception of violations that are an immediate threat to health or safety.
- 1.4 This policy is not intended for complaints regarding municipal services or operations. Complaints received regarding but not limited to: waste collection, public works/roads, taxes, accounts payable/receivable and planning will be forwarded to the appropriate department for action.

2.0 DEFINITIONS

- 2.1 **Clerk** means the Clerk of the Corporation of the Township of Mulmur
- 2.2 **Complaint** means a written complaint received by the municipality, either in print or email, including the online reporting tool located on the Township of Mulmur website, wherein the complainant provides their full name, address, phone number and nature of complaint that can be verified by the Municipal Law Enforcement Officer.
- 2.3 **Discretion** means the freedom to decide what should be done in a particular situation given all available information.
- 2.4 **Municipal Law Enforcement Officer (MLEO)** means a person, company or organization appointed by the municipality for the purpose of municipal law enforcement including, but not limited to a Building Inspector, By-law Enforcement Officer, Canine Control Officer or a person assigned and authorized by Council with the responsibility for enforcing and administering this policy.
- 2.5 **Municipality** means the Corporation of the Township of Mulmur.

2.6 **Spite Complaint / Frivolous and Vexatious Complaint**, means a complaint submitted with ill will or with intention of malice towards another person and may include retaliatory complaints and civil disputes. A spite complaint may also be defined as a complaint that is part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process. Such a pattern occurs when on three (3) or more occasions a complaint comes forward on a matter a *MLEO* has already dealt with. After consultation with the Clerk, the determination of a complaint being a spite complaint shall be at the discretion of the *MLEO*.

3.0 BY-LAW INVESTIGATION AND ENFORCEMENT

3.1 Municipal staff may assist the public by providing by-law information but will not provide opinions regarding the appropriateness of any proposed activity.

3.2 A *MLEO* may undertake an investigation on their own initiative upon observation of a possible situation of a by-law violation, or where the matter is of an immediate threat to health or safety.

3.3 The Municipality shall only respond to a complaint received in writing from a complainant. Anonymous and/or incomplete complaints shall not be investigated.

3.4 Written acknowledgement of receipt of a complaint will be provided to the complainant.

3.5 The name and any personal information provided by the complainant shall remain in the strictest confidence in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* and shall not be intentionally divulged to any member of Council, non-essential municipal staff, the public or media unless so ordered by a Court or other tribunal or body of competent jurisdiction. Persons who are the subject of a complaint are also protected under the *Municipal Freedom of Information and Protection of Privacy Act* and shall not be intentionally divulged to any member of Council, non-essential municipal staff, the public or media unless so ordered by a Court or other tribunal body of competent jurisdiction.

3.6 A *MLEO* may conduct a preliminary review of the complaint to verify the information provided and research any supporting documentation which may be available in municipal records.

3.7 A *MLEO* may call the complainant, when necessary, for further details or to confirm or clarify information provided within the formal complaint.

3.8 A *MLEO* may attend the site to investigate the activity to determine if a municipal by-law contravention exists.

3.9 If a *MLEO* is unclear of a possible contravention, they may seek the advice of the municipal prosecutor or solicitor, appropriate municipal staff members or if required,

other municipal by-law enforcement officers.

- 3.10 When seeking advice pursuant to section 3.9, a *MLEO* will ensure compliance with the *Municipal Freedom of Information and Protection of Privacy Act* and may only provide the necessary information required to the appropriate party so that an informed determination can be provided and where necessary the appropriate actions initiated.
- 3.11 Where a violation of a municipal by-law is determined by a *MLEO*, excluding set fine situations, documented ongoing violations, or where otherwise warranted, a *MLEO* may provide initial warning verbally and in writing with a time period to achieve compliance.
- 3.12 Notwithstanding section 3.11 of this policy; in situations wherein set fines have been established, a *MLEO* may, upon confirmation of the existence of a violation, immediately issue an offence notice/ticket.
- 3.13 Notwithstanding section 3.11 or 3.12 of this policy; where provided for by municipal by-law or otherwise a *MLEO* may issue an emergency order to remedy a violation in lieu of an initial warning when such a violation poses an immediate threat to health or safety.
- 3.14 If the initial warning and/or order has not been complied with within the specified time, the *MLEO* may review the non-compliance with the Clerk.
- 3.15 Following discussions with the Clerk pursuant to section 3.14 of this policy, a *MLEO* shall determine whether to issue a formal second written warning or proceed with the actions necessary to address the situation in accordance with municipal by-laws or otherwise:
 - a) If a second formal written warning or formal order is issued, a *MLEO* shall determine a final time period to achieve compliance.
 - b) If legal action is required, a *MLEO* shall recommend to the Clerk to proceed with legal action when it appears obvious compliance is not forthcoming.
 - c) At any stage of the enforcement process, if, in the opinion of the Clerk the matter is of significant consequence or will result in the expenditure of public monies the matter may be brought before Council for direction.
- 3.16 When compliance with any warning and/or order is confirmed, a *MLEO* shall enter the complaint finalized date and close the file.
- 3.17 Spite complaints or frivolous and vexatious complaints, neighbour disputes or complaints that are civil in matter will not be investigated unless deemed by the *MLEO* to be an immediate threat to health and safety.
- 3.18 Failure to comply with any provision of this policy shall not invalidate any proceeding

or any step, document or order in a proceeding otherwise in accordance with any municipal by-law, provincial or federal legislation.

- 3.19 In situations where multiple complaints are received from a complainant at one time, or where a complainant continuously submits a variety of complaints on an ongoing basis, the *MLEO*, with confirmation from the Clerk, are given the discretion to decide an appropriate level of response to such complaints. The level of response may include a decision to act on some or all of the complaints, to not act on some or all of the complaints, or to assign priority to some or all of the complaints.
- 3.20 If a decision not to act is reached, this will be conveyed to the complainant in writing.
- 3.21 In making a decision on the appropriate level of response by a *MLEO* to such complaints, staff will have regard to the following criteria:
- a) Safety factors;
 - b) Available resources;
 - c) Potential impact on the complainant;
 - d) Impact on the immediate neighbourhood;
 - e) Complaints that appear to result from a vendetta or retribution, or are otherwise deemed to be spiteful, frivolous and vexatious;
 - f) Offer for formal remediation.
- 3.22 Any decision made under this policy, including a decision not to respond to a complaint or enforce a by-law or a decision by the Clerk, may at any time be revisited.
- 3.23 In addition to municipal law enforcement options, complainants also have independent legal rights, which may be explored and pursued at any time by the complainant.
- 3.24 The Ontario Provincial Police are responsible for emergency situations and should be contacted to deal with issues, including but not limited to loitering, trespassing, noise related neighbour or domestic disputes, Highway Traffic Act violations and speeding, possible drug activity, vandalism and/or other criminal activities.
- 3.25 Pursuant to section 3.4 of this policy, once a complaint has been filed, other than acknowledgement of receipt of the complaint, no follow-up, involvement, information or correspondence regarding the complaint shall be provided to the complainant as the process is protected by the *Municipal Freedom of Information and Protection of Privacy Act*.
- 3.26 Council shall establish overall priorities for enforcement, enact by-laws, and adopt by-law enforcement policies but shall not get involved in day-to-day by-law investigations, communications, operations and enforcement decisions.

3.27 It is understood that in such circumstances where public monies are to be expended in the bylaw enforcement process, monies expended by the Municipality will be added to the tax roll associated with the by-law infraction and collected in like manner as taxes according to legislative requirements.

4.0 APPLICATION

4.1 This policy shall come into full force and effect on the day it is adopted by the Council of the Corporation of the Township of Mulmur.