

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 Clerk of 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. The determination of a complaint being a spite complaint shall be at the *discretion* of Clerk.

3.0 BY-LAW INVESTIGATION AND ENFORCEMENT

3.1 It is the policy of the Municipality that By-law investigation and enforcement shall be complaint driven. Except in cases where it is apparent that there is an immediate threat to health or safety, investigations and enforcement action will only be undertaken in response to a formal Complaint made in writing in accordance with this policy.

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

3.3 A *MLEO* may undertake an investigation on their own initiative where it is apparent that there is an immediate threat to health or safety.

3.4 The Municipality shall only respond to a *complaint* received in writing from a complainant either directly by the *Clerk* or via the online reporting tool located on the Township of Mulmur website. With the exception of matters concerning risk to the health or safety of the public, anonymous and/or incomplete *complaints* shall not be investigated. All *complaints* shall be submitted to the *Clerk*. A *complaint* in writing shall include all of the following information:

- a) full name;
- b) address;
- c) phone number; and
- d) details regarding the by-law contravention, including place and/or time, as well as any other details that may be necessary to permit the *MLEO* to investigate.

3.5 Where a *complaint* is submitted directly to a member of staff or Council, the member of staff or Council shall direct the complainant to submit the *complaint* in writing, in accordance with the requirements under s. 3.4.

3.6 Written acknowledgement of receipt of a *complaint* shall be provided to the complainant by the *Clerk* or the *MLEO*.

3.7 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.

- 3.8 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.
- 3.9 A *MLEO* may contact the complainant, when necessary, for further details or to confirm or clarify information provided within the formal *complaint*.
- 3.10 A *MLEO* may attend the site to investigate the activity to determine if a municipal by-law contravention exists.
- 3.11 If a *MLEO* is unclear of a possible contravention, they may seek the advice of the municipal planner or solicitor, appropriate municipal staff members or if required, other municipal by-law enforcement officers.
- 3.12 When seeking advice pursuant to section 3.11, 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.
- 3.13 A *MLEO* shall document all significant steps taken in their investigation. For further clarity, a *MLEO* shall document the date(s), time(s), and detailed particulars of activities undertaken pursuant to an investigation. The rationale for each investigative decision made by the *MLEO* shall be documented, with reference as appropriate to the relevant by-laws, legislation, and policies considered. Any evidence collected shall be stored in the file record, along with its source and the date it was collected.
- 3.14 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 an initial warning verbally and in writing with a period of time specified to achieve compliance.
- 3.15 If the initial warning and/or order has not been complied with within the specified time, the *MLEO* shall review the non-compliance with the *Clerk*.
- 3.16 Where a contravention poses an immediate threat to health or safety a *MLEO* may issue an emergency order to remedy a violation in lieu of an initial warning.
- 3.17 At the *discretion* of the *Clerk*, by-law enforcement matters may be advanced to Council for decision and direction. Council shall consider the complaint together with any information obtained through investigation by the *MLEO* and determine whether enforcement action is warranted and, if so, what enforcement steps shall be taken.

In making this determination, Council's exercise of *discretion* shall be based on weighing the following policy considerations against one another:

- a) Whether the contravention presents a threat to public health or safety;
- b) Complaints that appear to result from a vendetta or retribution, or are otherwise deemed to be spiteful, frivolous and vexatious;
- c) The cost of enforcement action against the contravening action to the Township;
- d) The probability of success on enforcement in achieving compliance with the relevant laws and by-laws;
- e) Potential impact on the complainant;
- f) Potential impact on the immediate neighbourhood; and
- g) If an offer for formal remediation has been made.

- 3.18 When compliance with any warning and/or order is confirmed, a *MLEO* shall enter the *complaint* as finalized, and date and close the file.
- 3.19 If either the investigating *MLEO*, *Clerk*, or Council becomes aware of non-compliance with laws, policies or regulations made by other agencies, such as Conservation Authorities, the *Clerk* shall notify the appropriate agency.
- 3.20 In spite of section 3.19 of this policy, if the Township has concurrent jurisdiction over enforcement, Council may decide to pursue enforcement concurrently.
- 3.21 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.
- 3.22 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 *Clerk*, shall have 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*.
- 3.23 The *Clerk* shall inform the complainant in writing of the decision regarding enforcement with respect to any *complaint(s)* made by the complainant. For further clarity, this shall be done whether or not enforcement will be pursued.
- 3.24 Any decision made under this policy, including a decision not to enforce a by-law, may at any time be revisited.
- 3.25 In addition to municipally initiated enforcement options, complainants also have independent legal rights, which may be explored and pursued at any time by the complainant.

- 3.26 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.
- 3.27 Pursuant to section 3.23 of this policy, once a *complaint* has been filed, other than acknowledgement of receipt of the *complaint*, and the written notice of enforcement decision, 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*.
- 3.28 It is understood that in such circumstances where public monies are to be expended in the by-law 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.