



CORPORATE POLICY

DEPARTMENT: Clerks Department/Legislative Services

POLICY: BY-LAW ENFORCEMENT POLICY

APPROVAL: COUNCIL

POLICY NUMBER: 2019-07

DATE OF PRESENTATION: December 16, 2019

EFFECTIVE DATE: December 16, 2019

1. PURPOSE

- 1.1 To provide a formal policy and procedure governing the handling of municipal by-law complaints by the municipality and to ensure standardized, thorough, prompt and courteous receipt, processing, investigation and resolution thereof.
- 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 education and enforcement.
- 1.3 The municipality shall operate on a reactive complaint-based process in regard to municipal law enforcement with the exception of a violation that is an immediate threat to health or safety.

2. DEFINITION

- 2.1. **Administrator** means the Clerk/Director of Legislative Services of the Corporation of the Town of Shelburne.
- 2.2. **Complaint** means a complaint received by the municipality, wherein the complainant provides their full name, address, phone number and nature of complaint that can be verified by the Municipal Law Enforcement Officer, in writing using the required form submitted to the municipality.



- 2.3. **Municipal Law Enforcement Officer** means a person appointed by the municipality for the purpose of municipal law enforcement including, but not limited to a Building Inspector, By-law Enforcement Officer, Police Officer and a person authorized by Council or an assigned individual with the responsibility for enforcing and administering this policy.
- 2.4. **Municipality** means the Corporation of the Town of Shelburne.
- 2.5. **Spite Complaint**, also known as **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 Municipal Law Enforcement Officer has already dealt with. After discussing it with the Administrator, the determination of a complaint being a spite complaint shall be at the discretion of the Municipal Law Enforcement Officer.

3. BY-LAW INVESTIGATION AND ENFORCEMENT POLICY AND PROCEDURE

- 3.1. The Municipality shall only respond to complaints received from a complainant who provides their full name, telephone number, address and nature of the complaint in writing. Anonymous and/or incomplete complaints shall not be investigated:
- a) A Municipal Law Enforcement Officer may undertake an investigation on their own initiative upon observation of a possible situation of a by-law violation where the matter is of an immediate threat to health or safety.
 - b) 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. 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.

- 3.3. A Municipal Law Enforcement Officer 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.
- 3.4. A Municipal Law Enforcement Officer may call the complainant, when necessary, for further details or to confirm or clarify information provided within the formal complaint.
- 3.5. A Municipal Law Enforcement Officer may attend the site to investigate the activity to determine if a municipal by-law contravention exists.
- 3.6. If a Municipal Law Enforcement Officer is unclear of a possible contravention, they may seek the advice of the municipal prosecutor or municipal solicitor if required, or the appropriate municipal staff member:
 - a) A Municipal Law Enforcement Officer may provide the information required to the appropriate party so that an informed determination can be provided and where necessary the appropriate actions initiated.
- 3.7. Where a violation of a municipal by-law is determined by a Municipal Law Enforcement Officer, excluding set fine situations or documented, chronic violations or where otherwise warranted, a Municipal Law Enforcement Officer may provide an initial warning to the person by any of the following four (4) methods:
 - a) In person;
 - b) By telephone;
 - c) Email or;
 - d) In writing.



- 3.8. Notwithstanding section 3.7 of this policy; in situations wherein set fines have been established for violations of a municipal by-law, a Municipal Law Enforcement Officer may, upon confirmation of the existence of a violation, immediately issue an offence notice/ticket.
- 3.9. Notwithstanding section 3.7 or 3.8 of this policy; where provided for by municipal by-law or otherwise a Municipal Law Enforcement Officer 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.
- 3.10. When compliance with the warning and/or order is confirmed, a Municipal Law Enforcement Officer shall enter the complaint finalized date in the By-law matters database and close the file.
- 3.11. If the warning and/or order has not been complied with within the specified time, the Municipal Law Enforcement Officer may review the non-compliance with the Administrator.
- 3.12. Following discussions with the Administrator pursuant to section 3.11 of this policy, a Municipal Law Enforcement Officer shall determine whether to attempt a 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 written warning or formal order is issued, a Municipal Law Enforcement Officer shall determine a final time period to achieve compliance.
 - b) If legal action is required, a Municipal Law Enforcement Officer shall recommend to the Administrator 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 Administrator the matter is of significant consequence, the matter may be brought before Council for direction.
- 3.13. Spite Complaints or complaints based on neighbour disputes shall not be investigated by a Municipal Law Enforcement Officer unless deemed to be



an immediate threat to health and safety.

- 3.14. 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.
- 3.15. Frivolous and Vexatious complaints will not be investigated unless deemed by the Municipal Law Enforcement Officer to be an immediate threat to health and safety.
- 3.16. In situations where multiple complaints are received from a single person at one time, or where a single person continuously submits a variety of complaints on an ongoing basis, the Municipal Law Enforcement Officer, with confirmation from the Administrator, are given the discretion to decide on 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.
- 3.17. If a decision not to act is reached, this will be conveyed to the complainant in writing.
- 3.18. In making a decision on the appropriate level of response to such complaints, staff will have regard to the following criteria:
 - Safety factors;
 - Available resources;
 - Potential impact on the complainant;
 - Impact on the immediate neighbourhood;
 - Complaints that appear to result from a vendetta or retribution, or are otherwise deemed to be frivolous and vexatious;
 - Offer for formal remediation.
- 3.19. 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 Administrator, may at any time be revisited.



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

- 3.20. In addition to municipal law enforcement options by the Municipality, persons also have independent legal rights, which may be explored and pursued by said persons.
- 3.21. The Shelburne Police Service 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, possible drug activity, vandalism or other possible criminal activity.
- 3.22. Pursuant to section 3.2 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*.
- 3.23. Council or Council Members 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 enforcement decisions.

4. 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 Town of Shelburne.