



CORPORATE POLICY

(By-law Enforcement)

SECTION: Communication	EFFECTIVE DATE: April 23, 2018
SUBJECT: By-law Enforcement Operational Policy and Procedures	POLICY NUMBER: COMMUNICATION-10
<p>POLICY:</p> <p>1.0 Purpose:</p> <p>1.1 The Town of Huntsville is committed to the delivery of By-Law Enforcement services in a timely and effective manner. The mandate of the By-law Enforcement Department is to achieve compliance with Municipal By-laws through education and enforcement.</p> <p>1.2 The Town of Huntsville shall generally operate on a reactive complaint based process in regards to Municipal By-law Enforcement with the exception of parking infractions, or other proactive enforcement programs established by the Town from time to time. Reactive enforcement entails responding to written complaints as they are submitted by members of the public and/or staff and Council. In contrast, proactive enforcement involves a Town education and enforcement program involving the health and safety of the residents and visitors of the Town of Huntsville as well as by-law contraventions that are deemed detrimental to the overall image of the Town.</p> <p>1.3 The purpose of this document is to provide a formal policy and procedure governing the handling of Municipal By-law complaints by the Town of Huntsville and to ensure standardized, thorough, prompt and courteous receipt, processing, investigation and resolution thereof. This policy is to be used in conjunction with all other applicable Town Policies and Procedures (ie. Code of Conduct, Human Resources, Health and Safety etc.) which govern the actions of all its employees.</p> <p>1.4 Complainants are protected under the Municipal Freedom of Information and Protection of Privacy Act and every complainant will be kept completely confidential and not be intentionally divulged to any member of Council, the public or media.</p> <p>2.0 Application:</p> <p>2.1 This policy shall govern actions of complainants, Town Staff and the Town's By-law Enforcement Officers.</p> <p>3.0 Definitions:</p> <p>3.1 CAO means the Chief Administrative Officer for the Town of Huntsville.</p>	

- 3.2 **Formal Complaint** means a complaint received by Staff, wherein the complainant provides their full name, address and phone number that can be verified by the Investigator and nature of complaint in writing using the required form, over the telephone, in person or via email.
- 3.3 **By-Law Enforcement Officer** shall mean a person appointed by the Town of Huntsville for the purposes of Municipal Law Enforcement including, but not limited to a Building Inspector, Municipal 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.
- 3.4 **Spite Complaint** also known as a **Frivolous and Vexatious Complaint**, means a complaint filed in ill will or with the intention of malice towards another person and may include retaliatory complaints and neighbour disputes. A Spite Complaint may also be identified by a complaint that is part of a pattern of conduct by the complainant that amounts to an abuse of the complaints process. Such a pattern occurs when on three (3) or more occasions a complaint comes forward on a matter a By-law Law Enforcement Officer has already dealt with. The determination of a complaint being a Spite Complaint shall always be at the sole, absolute and unfettered discretion of a By-Law Enforcement Officer.
- 3.5 **Town** means the Corporation of the Town of Huntsville.
- 4.0 Procedures:**
- 4.1 Receipt and Confirmation of Complaint**
- 4.1.1 Upon receipt of a Formal Complaint, staff shall record the Formal Complaint in a Complaints Log maintained by the By-law Enforcement Department. In all cases, Staff shall encourage the complainant to complete a Complaint Form attached hereto as Appendix "I". Where this is not possible, the complainant must provide their name and contact information and describe the matter in their own words, detailing the "who", "what", "when", "where" and "why" of the situation.
- 4.1.2 The By-law Enforcement Officer assures the complainant that their name and any personal information provided by them will remain in the strictest of confidence, in accordance with the *Municipal Freedom of Information and Protection Privacy Act* and will not be revealed to anyone unless so ordered by a Court or other tribunal or body of competent jurisdiction.
- 4.1.3 The By-law Enforcement Officer conducts a preliminary review of the complaint to verify information and research any supporting documentation which may be available in Town records.
- 4.1.4 The By-law Enforcement Officer calls the complainant, when necessary, for further details or to confirm or clarify information provided within the Formal Complaint or to obtain the complainant's signature on the written Formal Complaint, when necessary.
- 4.2 Investigation**
- 4.2.1 The By-law Enforcement Officer shall attend the site to witness and record the activity to determine if a contravention exists.
- 4.2.2 If the By-law Enforcement Officer is uncertain whether the circumstances constitute a contravention, he/she may seek input from the Municipal Prosecutor or Municipal Solicitor if required, and/or the individual responsible for administering the by-law.
- 4.2.3 If the By-law Enforcement Officer determines the matter is not a contravention of any by-law or other statute that the Township is responsible for enforcing, Staff will advise the complainant, enter the complaint finalized date on the complaint form and in the Complaints Log, and close the file.

4.3 Enforcement – First Stage

4.3.1 In case of situations wherein set fines have been established for violations, a By-law Enforcement Officer may, upon confirmation of the existence of a violation, immediately issue an offence notice/ticket. In all cases, the By-law Enforcement Officer shall identify a suspected violation and the laws having jurisdiction during an initial warning stage and shall notify the suspected violator of a time limit in which voluntary compliance is expected.

4.3.2 Notification of an initial warning to the suspect/violator shall be by at least one (1) of the following four (4) means:

- (a) In person;
- (b) By telephone;
- (c) In writing; and
- (d) By email.

The By-law Enforcement Officer will then document which form of communication he/she used.

4.3.3 The By-law Enforcement Officer shall notify any internal departments and outside agencies that may have jurisdiction or may be required to assist with or rectify the situation (i.e. Fire Department, Public Works Department, Ministry of Natural Resources, Ministry of Environment, Simcoe Muskoka District Health Unit).

4.3.4 Where provided for by By-law or other statute, a By-law Enforcement Officer may issue an emergency order to remedy a violation in lieu of an initial warning if the situation poses an immediate threat to health or safety. The By-law Enforcement Officer will notify their immediate supervisor and the CAO immediately.

4.3.5 After the time limit has expired, the By-law Enforcement Officer shall return to the site to determine if compliance has been accomplished.

4.3.6 Upon confirming that the warning has been complied with, Staff will enter the complaint finalized date on the compliant form and in the Complaints Log, and close the file.

5.0 Enforcement – Second Stage

5.1 If suspected violator has not complied with the warning, the By-law Enforcement Officer shall review the non-compliance with municipal Staff responsible for administering the bylaw, if warranted.

5.2 The By-law Enforcement Officer decides, based on discussions with the municipal Staff responsible for administering the by-law, whether to attempt a second written warning or proceed with the actions necessary to address the situation in accordance with municipal by-laws or other statutes. Either:

- (a) If a second written warning or formal order is to be issued, the Investigator will proceed and give a final time period in which to comply; or
- (b) If legal action is decided, the Investigator will provide the municipal staff responsible for administering the by-law with a recommendation to proceed with legal action when it appears obvious compliance is not forthcoming.

5.3 At any stage of the enforcement process, if, in the opinion of the By-law Enforcement Officer, CAO, Municipal Staff responsible for administering the by-law, the matter is of significant consequence, the matter may be brought before Council for direction.

6.0 Spite Complaints

6.1 Spite Complaints will not be accepted unless deemed by a By-law Enforcement Officer to be immediate threat to health and safety.

7.0 Level of Involvement

7.1 By-law Enforcement Officers have, in the absence of Council direction to the contrary, discretion to determine the appropriate response to a Complaint. This may include decisions to act on some, all or none of the Complaints, and assign priority between Complaints. This discretion is to be exercised on the basis of the following criteria:

- (a) safety factors;
- (b) history of attempts for compliance made by a Municipal Law Enforcement Officer;
- (c) available resources, including financial resources;
- (d) potential impact of not responding;
- (e) offer for formal mediation;
- (f) coordinating involvement with other relevant agencies;
- (g) likelihood of achieving compliance;
- (h) Municipal jurisdiction and authority;
- (i) other enforcement avenues including civil processes.

7.2 Complainants are protected under the *Municipal Freedom of Information and Protection of Privacy Act* and every complainant will be kept completely confidential and 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 every subject of a complaint will be kept confidential and not be intentionally divulged to any member of Council, non-essential municipal staff, the public or media unless required for investigation purposes or so ordered by a Court or other tribunal or body of competent jurisdiction.

7.3 Pursuant to Section 7.2 of this Policy, once a complaint has been filed, other than acknowledgment 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*.

7.4 No delegations to Council shall be permitted by any person concerning, or with the subject matter, of a Municipal By-law complaint.

8.0 Reporting

8.1 A By-law Enforcement Officer shall provide an annual report to Council regarding general Municipal Law Enforcement statistics.

Appendix "I"



**Town of Huntsville
By-law Complaint Form**

PLEASE BE ADVISED THAT ALL COMPLAINTS ARE PRIVATE AND CONFIDENTIAL AND PROTECTED PURSUANT TO THE FREEDOM OF INFORMATION AND PROTECTION TO PRIVACY ACT, R.S.O. 1990 AS AMENDED. NO NAME WILL BE DISCLOSED WITH RESPECT TO ANY INVESTIGATION AND/OR CHARGES WHICH MAY BE LAID.

Date: _____

Name of Complainant: _____

Address: _____

Phone No.

COMPLAINT

Address of Property:

Nature of Complaint: _____

For additional space use back of form

I AFFIRM THAT I HAVE PERSONAL KNOWLEDGE OF THE FACTS CONTAINED WITHIN THIS FORM AND THAT THE INFORMATION CONTAINED WITHIN THIS FORM IS TRUE TO THE BEST OF MY KNOWLEDGE. IF NECESSARY TO TAKE THE MATTER TO COURT, I AGREE TO APPEAR TO TESTIFY AND TO GIVE EVIDENCE TO SUBSTANTIATE THE COMPLAINT WITHOUT BEING SERVED A SUBPOENA.

Signature of Complainant

FOR OFFICE USE ONLY

Name of Owner: _____

Address of Owner: _____

Roll No: _____

Occurrence No: _____

Referral Date: _____

Referred To: _____

Type of Occurrence: _____