

**Municipal Law Enforcement  
Customer Service Policy**

**Applies To: By-law Services**

**Effective Date:**  
November 13, 2019  
Council Resolution 373-2019



**By-law Services**

**POLICY NUMBER**  
POL.PBD.BL.19.01

## 1. PURPOSE

The purpose of this policy is to provide guidance to Staff, elected officials and the general public regarding by-law enforcement policies and practices in the receipt of complaints and initiation of investigation and enforcement proceedings related to regulatory by-laws of the Town of Collingwood.

**Council has the sole discretion of deciding which by-laws to enact and enforce.** By-laws have a profound and direct impact on the quality of life, health and safety and the reputation of our community. Council must weigh the impacts of non-enforcement to that of the expectations of the members of the community and the level of risk exposed for non-enforcement versus the benefits of cost saving measures.

## 2. DEFINITIONS

**Business Day** means a day in which normal business operations are conducted and is generally considered to be between the hours of 8:30a.m. to 4:30p.m. Monday through Friday. A business day excludes weekends, public holidays and when Town Hall is closed (i.e. for inclement weather).

**Discretion** means the freedom to decide what should be done in a particular situation given all the available information.

**Frivolous Complaint** means a complaint that is reasonably perceived by Town Staff to be (a) without reasonable or probable cause, (b) without merit or substance, or (c) trivial.

**Municipal Law Enforcement Officer (MLEO)** includes a provincial offenses officer or an employee, agent appointed by Council of the Corporation of the Town of Collingwood to enforce the municipal by-laws of the Town.

**Patrol Service Level** mean a MLEO tasked with periodic or routine patrols through all or parts of municipality to seek out violations. By-law cases with proactive status are the high priority.

**Proactive Service Level** means a violation observed during course of duties where a MLEO will take necessary steps to correct the violation. By-law cases with patrol status are medium priority.

**Reactive Service Level** means a MLEO will initiate an investigation upon notification of a valid complaint from the public. By-law cases with patrol status are low priority.

**Town By-law** means a by-law enacted by the Town of Collingwood Council.

**Vexatious Complaint** means a complaint that is frivolous and which is pursued in a manner that is reasonably perceived by Town Staff to be (a) malicious, (b) intended to embarrass or harass the recipient, or (c) intended to be a nuisance or bad faith purposes.

**Valid Complaint** means a complaint that describes the location and general nature of a potential by-law contravention, which includes the complainant's name, address and telephone number, and which is not a vexatious complaint.

**Violation of High Priority** means a violation highly likely to cause health & safety issues to the public.

**Violation of Medium Priority** means a potential to cause health & safety issues to public; negatively impact the community or environment.

**Violation of Low Priority** means a potential violation unlikely to cause health & safety issues to public; negatively impact the community or environment.

### 3. BACKGROUND

Our goal is to make Collingwood a great place to live, work and play. By-laws are a core part of the structure in place to achieve this goal as they promote safety, create standards to support good neighbour interactions, and prevent behaviours that undermine the quality of life in our community, such as litter, graffiti, noise and unsightly properties.

In supporting this goal, the Town's By-law Enforcement Policy is to achieve voluntary compliance with Town by-laws in all instances and to provide proactive enforcement through optimum solutions as needed to maintain community standards.

This By-law Enforcement Policy is based on the following four principles:

1. Avoid arbitrary or inconsistent decisions;
2. Ensure similar cases are treated in a similar way;
3. Provide By-law Enforcement Staff with guidance on, and limits to, exercising discretion; and
4. Provide the public with clarity and details on how and why enforcement decisions have been made.

#### Administrative Fairness

Administrative fairness refers broadly to an overall approach to administrative decision-making that is transparent, fair and accountable. With respect to By-law Enforcement, administrative fairness is characterized by:

- by-laws that are authorized by, and consistent with, Council direction and legislation
- a written policy for fairly and reasonably exercising discretion when enforcing by-laws
- written standards and expectations of conduct by By-law Enforcement Staff when they interact with the public

- clear, consistent and available public information regarding by-laws and enforcement practices, and how to make complaints and appeal decisions
- a process for receiving, assessing and responding to complaints in a timely manner
- a consistently applied and well-documented investigative process that establishes a clear factual basis for enforcement
- adequate notice to affected persons before any enforcement is taken
- enforcement decisions that are authorized by applicable legislation and by-laws
- enforcement decisions that are consistent with policy and with other similar decisions, are equitable, and are proportionate to the problem being addressed
- reasons for enforcement decisions that are appropriate, that set out the basis for the enforcement and that provide information about how to appeal; and
- appeal processes that are accessible and fair, and that are communicated to affected persons in a timely manner.

Demonstrating a commitment to administrative fairness increases the public's confidence in our By-law Enforcement Program, and provides Council confidence that we are treating everyone in a fair manner.

By-law enforcement practices based on administrative fairness principles is beneficial in several important ways, including the following:

1. Abiding by principles of administrative fairness assist Staff to reduce conflict in matters of by-law compliance and enforcement. By-law Enforcement Staff interact with the public, sometimes in high conflict situations when enforcing Town by-laws. Enforcement decisions often affect people on their property or in their home. When enforcement decisions are seen to be reasonable and appropriate, conflict may be reduced.
2. Establishing and promoting fair by-law enforcement processes can assist to reduce both the number of complaints received and resolve issues more quickly and effectively, thus saving time and money. By-law enforcement processes that are clearly laid out and accessible to all involved enable Staff not only to work more efficiently in dealing with complaints, but also to be consistent in the actions taken when problems arise. This clear, open approach can lead to fewer by-law complaints. Furthermore, a fair enforcement framework can also assist with limited resources and maintain enforcement capacity.
3. Adopting a consistently fair and reasonable approach to by-law enforcement can assist to build stronger community relationships where it is demonstrated clearly a commitment to administrative fairness of being responsive, transparent and accountable.

#### **4. SCOPE**

This policy applies to all employees of the Town of Collingwood and members of the public.

## 5. BY-LAW ENFORCEMENT POLICY

### 5.1. General Provisions

5.1.1. To ensure consistency and fairness to all residents, business owners and landowners within the Town of Collingwood, the following general provisions and guidelines will be followed by Municipal Law Enforcement Officers:

- a) In responding to complaints, except in cases related to public health and safety, the highest priority will be to respond to valid complaints.
- b) During the regular course of their duties, the MLEO may seek out by-law infractions for issues of public health and/or safety or other by-law violations.
- c) It is not possible to actively ensure that all of the Town's various regulatory by-laws are being complied with at all times. Enforcing the Town's own by-laws is, therefore, discretionary and not mandatory in most instances.
- d) The Town of Collingwood promotes an enforcement philosophy that seeks voluntary by-law compliance, which is often achieved through education, information, and non-penalty enforcement, including providing a reasonable time frame to comply.
- e) Compliance may be encouraged through notification of fines and other enforcement measures associated with the offence.
- f) Council is not involved in any way with the sanctioning of an investigation or making a decision on who shall be investigated.
- g) Some complaints may be considered either as a civil dispute between property owners, such as storm drainage, or as a minor non-enforceable issue, such as trees overgrowing property lines. These will not be acted upon by By-law Enforcement Staff.

#### ***Enforcement Options***

5.1.2. Municipal Law Enforcement Officers, at their discretion, may use the following enforcement options:

- a) prosecution under the *Provincial Offences Act*
- b) municipal ticketing
- c) by-law offence notice, "Notice of Violation"
- d) direct enforcement
- e) civil proceedings

## 5.2. Confidential Information

- 5.2.1. Personal information collected by the Town as a result of a written complaint and any information collected during a By-law investigation is protected under the authority of the [Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M-26](#).
- 5.2.2. Town Staff shall keep confidential any and all personal information it collects from its citizens and the public.
- 5.2.3. Town Staff will only collect personal information that is necessary for the monitoring and enforcement of a by-law infraction.
- 5.2.4. The identity of the requestor and the written complaint will not be disclosed to the alleged offender or any member of the public. It is not necessary for the requestor to request confidentiality. Likewise, the response of the alleged offender will not be disclosed to the requestor, whether it is in writing or made orally.
- 5.2.5. Persons reporting the alleged infractions of Town by-laws are to be advised that their identity and any personal information they provide will be kept confidential unless they are required to testify in court or it is part of an audit or a similar process.
- 5.2.6. The anonymity and confidentiality given to requestors and alleged offenders cannot be assured if the investigation results in court, an audit, or similar proceedings.
- 5.2.7. Requestors and alleged offenders are to be advised that any personal information that they provide about other parties is subject to disclosure by order of the [Information and Privacy Commissioner of Ontario](#).
- 5.2.8. While the investigation is ongoing or while a resulting matter is before the courts, no information regarding the matter will be made available to the public or the requestor.

## 5.3. Applying Principles of Proportionally, Equity and Consistency

- 5.3.1. By-law Enforcement Staff will apply principles of proportionality, equity and consistency in by-law enforcement decisions by:
  - a) Considering whether an enforcement measure is proportionate to the harm caused by the violation
  - b) Considering whether a person's circumstances would make enforcement unjust; and
  - c) Considering whether an enforcement measure is consistent with policy and practice.

### ***Proportional Enforcement***

- 5.3.2. By-law enforcement action will be proportional to the nature of the violation. That is, enforcement measures should appropriately address the harm that is caused by the

violation. For example, large fines are likely not an appropriate response to a minor by-law violation.

### ***Equitable Enforcement***

- 5.3.3. By-law enforcement action will be equitable – that is, applied in a way that is just in light of a person’s circumstances. This means that Staff will consider a person’s circumstances and ability to comply before determining whether enforcement is appropriate and what enforcement tools they should use.
- 5.3.4. This does not mean that by-laws cannot be enforced against disadvantaged individuals. Rather, equity is a principle of fairness in By-law Enforcement Staff discretion to decide whether and how to enforce Town by-laws.

### ***Consistent Enforcement***

- 5.3.5. Consistency is also an important part of a fair By-law Enforcement process and in the application of determinative principles and standards. Similar cases will be treated in a similar matter by following a generally consistent approach to by-law enforcement.
- 5.3.6. By-law Enforcement Staff are not required to follow the same approach in every case, however, if they enforce the same by-law differently in similar circumstances, their decisions may appear to be arbitrary. When deciding what action is appropriate, a MLEO should consider whether there is a compelling reason given the circumstances to deviate from policy and past practice.
- 5.3.7. When By-law Enforcement Staff do deviate from policy or practice, they will explain to the individual who is affected. For example, a different enforcement approach may be justified if an individual has a past history of non- compliance, the violation is more severe than other cases, or the circumstances would make enforcement in the usual way unjust.

## **5.4. Making, Receiving and Recording Complaints**

### ***Method of Making a By-law Complaint***

- 5.4.1. All by-law complaints are required to be submitted in writing by way of the prescribed complaint form, by letter, email or an online form on the Town website.
- 5.4.2. Complainants shall provide their full name, their Collingwood address, preferred method of contact and/or contact information and a brief description of the nature of their complaint.
- 5.4.3. Verbal complaints will only be received in instances of serious health and safety or environmental concerns.
- 5.4.4. All complaints shall be processed in priority of the Council approved “**Service Level Matrix**”.

### **Receiving a Responding to a By-law Complaint**

- 5.4.5. By-law Staff will acknowledge the receipt of a valid By-law complaint to the complainant no later than **1 business day** (“*next business day*”).
- 5.4.6. The complainant will be provided with an overview of the next steps and when to expect a response on the status of their concerns.
- 5.4.7. The complainant will be provided a case number to reference in future correspondences with By-law Staff.
- 5.4.8. By-law Staff will communicate to the complainant that some by-law matters will take a lengthy time before being resolved and may be deemed a civil matter in some instances.

### **Recording a By-law Complaint**

- 5.4.9. By-law Staff shall record the following information in the Town’s City View database system:
  - The date the complaint was received
  - The location in question
  - The complainant’s information
  - The details of the complaint
  - The potential By-law being violated; and
  - All action and steps to resolve a by-law matter by By-law Enforcement Staff.

## **5.5. Responding to Frivolous, Repeat or Multiple Complaints**

- 5.5.1. Repeat complaints on similar issues will be assessed on their merits, even if numerous, to determine the appropriate response and action, if any.
- 5.5.2. Previous attempts by By-law Enforcement to address a repeat issue and steps taken will be reviewed.
- 5.5.3. Where compliance with a potential by-law infraction has been confirmed, further action on a repeat or frivolous complaint may not be acted upon unless new information is provided by the complainant.
- 5.5.4. Restricted contact to a repeat complainant on a same issue or a frivolous complaint will be considered by the Manager, Building & By-law Services or the Director, Planning & Building Department on after carefully assessing the circumstances.
- 5.5.5. The Manager will clearly communicate to the complainant, in writing, the nature of the restrictions, the reasons for them and circumstance when they may be reconsidered.
- 5.5.6. The restricted communication on a By-law enforcement matter does not prevent or limit other necessary contact with Town Staff that is unrelated to the person’s complaints.
- 5.5.7. Where multiple complaints are received from different people about the same issue, Staff may assess and determine a response for the complaints as a whole rather than

individually. In doing so, however, Staff must consider any nuances of the different complaints and respond to each issue received from each complainant.

## 5.6. Communicating Enforcement Decisions

5.6.1. By-law Enforcement Staff will provide a person affected by an enforcement decision with reasons for enforcement that:

- a) describe the concerns that led to the enforcement action and the evidence supporting those concerns;
- b) set out the by-law section on which the decision is based;
- c) are clear and easily understood by the person affected by the decision; and
- d) provide information about options for review or appeal of the decision.

### ***Discontinuing a Service***

5.6.2. By-law Enforcement Staff will only end a service after all other options have been exhausted.

5.6.3. Before ending a service, By-law Enforcement Staff provide a person with:

- a) written notice of the pending enforcement decision
- b) reasons for the decision
- c) information about how the person can comply with the requirements, if that is an option
- d) Information about the person's right to dispute the decision and, if applicable, make representations to Council before a final decision is made.

### ***Notice Prior to Enforcement Action***

5.6.4. Personal contact, save and except for parking infraction notices, will be the *preferred* method of communication prior to any enforcement action.

5.6.5. By-law Enforcement Staff will provide reasonable notice prior to taking enforcement action.

5.6.5.1. Notice includes:

- a) an explanation of the relevant by-law and how the person is alleged to have contravened it;
- b) reasonable time limits for compliance; and
- c) the potential consequences of failing to respond or comply within the time limits.

5.6.6. By-law Enforcement Staff will not take enforcement action before the expiry of the compliance time limits set out in a notice letter or verbal communication.

### ***Reasonable Time Limits***

5.6.7. By-law Enforcement Staff are authorized to use discretion to extend a time limit if necessary to achieve compliance, for example, to accommodate an out-of-country resident.



- 5.6.8. By-law Enforcement Staff should not, however, arbitrarily shorten a time limit, except in extraordinary circumstances, and not before attempting to communicate with the resident.
- 5.6.9. Further, it is essential that Staff are available if the resident has questions or wants to request an extension.

**Notice of Potential Consequences**

- 5.6.10. When giving a Notice of Violation, By-law Enforcement Staff will advise the proponent of the potential consequences of not complying with a by-law; in writing and/or verbally. For example, many unsightly premises by-laws allow By-law Enforcement Staff to enter a person's property and clean it up at the owner's expense. The cost of the clean-up is then added to the property taxes if it is not paid within a specified period of time.
- 5.6.11. Prior to taking the above measures, By-law Enforcement Staff will follow a fair process by providing notice that explains any steps it is prepared to take if the owner does not comply.

**Providing Reasons for Enforcement Decisions**

- 5.6.12. By-law Enforcement Staff will provide a person affected by an enforcement decision with reasons for enforcement that:
  - a) describe the concerns that led to the enforcement action and the evidence supporting those concerns;
  - b) set out the by-law section on which the decision is based;
  - c) are clear and easily understood by the person affected by the decision; and provide information about options for review or appeal of the decision

**5.7. Complaint Priority: Service Level Matrix**

- 5.7.1. To ensure adequate resources to investigate all complaints, a Service Level Matrix will assist By-law Enforcement Staff to prioritize the level of service for each Town by-law and required legislation.
- 5.7.2. Refer to Appendix for the "**Service Level Matrix**"
- 5.7.3. The desired level of service has been assigned a corresponding service level category of proactive, patrol and reactive (or complaint basis) with each defined as:
  - a) **Proactive Service Level** means a serious violation observed during course of duties where a MLEO will take necessary steps to correct the violation. By-law cases with proactive status are the *high* priority.
  - b) **Patrol Service Level** means a MLEO tasked with periodic or routine patrols through all or parts of municipality to seek out violations. By-law cases with patrol status are *medium* priority.

- c) **Reactive Service Level** means a MLEO will initiate an investigation upon notification of a *valid compliant* from the public. By-law cases with reactive status are *low* priority.
- d) **Anonymous Complaints** will not be investigated unless potential safety, health, or liability issues are identified.

### **Assessing Complaint Priorities**

- 5.7.4. When assessing the priority of the bylaw violation, Staff will consider, but are not limited to, matters such as:
- a) potential risk to public health and/or safety;
  - b) magnitude, nature and duration of the contravention;
  - c) history of non-compliance on the property or by the contravener;
  - d) potential short and long term impact on a structure, the community and the environment;
  - e) potential for setting a precedent;
  - f) resources available to resolve the matter;
  - g) potential costs associated with enforcement action; and,
  - h) the likelihood of obtaining the desired results.

### **Updating the Service Level Matrix**

- 5.7.5. The “Service Level Matrix” appended to this Policy will be reviewed by the Manager on an annual basis and will be updated from time to time as Council makes any by-law service change decisions.

## **6. REFERENCES**

N/A

## **7. ATTACHED**

7.1. Service Level Matrix

**Town of Collingwood**

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