



Policy: By-law Enforcement Complaint Policy

Policy Number: CP-B-1.2

Effective Date: September 13, 2021

Revised Date: N/A

PURPOSE:

The By-Law Enforcement Complaint Policy is a formal policy governing the handling of By-law complaints by the Municipality of Thames Centre and to ensure thorough, prompt and courteous receipt, processing, investigation and resolution of complaints by the Municipality.

DEFINITIONS:

Anonymous: Means a complaint submitted with no complainant details including name, phone number and address.

Formal Complaint: Means a complaint received in writing by staff wherein the complainant provides their full name, address, phone number and complaint property information and details that can be verified by the Officer.

Officer: Means a person appointed by the Municipality of Thames Centre for the purposes of Municipal By-law Enforcement including, but not limited to, a Building Inspector or Municipal Law Enforcement Officer.

Staff: Means any Municipality of Thames Centre staff receiving or documenting the status of a complaint.

Municipality: Means the Municipality of Thames Centre.

Vexatious: Means causing or tending to cause annoyance, frustration or worry.

Vexatious Complaint: Means a complaint filed in ill will or with the intent of malice towards another person and may include retaliatory complaints and neighbor disputes.

POLICY:

1. General Application

Any Provincial Act or applicable regulation, Federal Act or applicable regulation, Middlesex County By-law that is in force at the Municipality's level, or Municipality of Thames Centre By-law shall prevail if they conflict with this Policy.

2. General By-law Enforcement Complaints

The Municipality will only respond to Formal Complaints received from complainants who provide their full name, telephone number, address as well as the address of the complaint and details regarding the nature of the complaint.

Anonymous calls will be documented, but no formal action will be taken unless the complaint concerns an immediate threat to health or safety. An Officer may also undertake an investigation on their own initiative upon observation of a possible By-law violation where the matter is of an immediate threat to health or safety in accordance with Section 4 of this policy.

An identified complainant's personal information will be kept confidential in accordance with the Municipal Freedom of Information and Protection of Privacy Act, unless permission to release such information is provided by the complainant in writing or the complainant is required as a witness in Court or at a hearing or tribunal.

3. Vexatious By-law Enforcement Complaints

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 Officer is given the discretion to decide on the appropriate level of response to such complaints. The level of response by the Officer 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. If a decision not to act is reached, this will be communicated to the complainant in writing.

In making a decision on the appropriate level of response to such complaints, the officer will have regard to the following criteria:

- Safety factors;
- Available resources;
- Potential impact on the complainant;
- Potential impact of not responding;
- Impact on the immediate neighbourhood;
- Complaints that appear to result from a form of retribution, or are otherwise deemed to be frivolous and vexatious;
- Offer for formal mediation;
- Coordinating involvement with other relevant agencies.

In situations where By-law Enforcement Staff are involved in a dispute between two or more individuals, and where it has become obvious that staff's involvement will not be able to achieve a reasonable resolution to their dispute, staff are given the discretion to decide in consultation with

the Chief Administration Officer, on an appropriate level of further involvement.

The level of involvement may include a decision to suspend further involvement or take no further action in the dispute. This decision will be communicated to the complainant in writing.

In making a decision as to the level of further involvement in the dispute, staff will have regard to the following criteria:

- Safety factors;
- History of attempts to mediate by staff;
- Offer for formal mediation;
- Coordinating involvement with other relevant agencies;
- The number of unfounded complaints received;
- Apparent attempts to purposely aggravate the situation;
- The number of complaints or concerns registered that do not fall within the jurisdiction of the Municipality.

4. Priority of Response

An Officer will respond to Formal Complaints on a reactive basis.

An Officer may also undertake a proactive investigation upon observation of a possible situation or a By-law violation that is deemed to be an immediate threat to health and safety.

Immediate threats include the following violations and will be given top enforcement priority:

- Unsafe swimming pools
- Unsafe residential rental units that lack vital services to be provided by a landlord
- Health and safety concerns related to snow and ice removal
- Structures not in accordance with zoning bylaw or building code
- Any other By-law violation that could cause injury or even death, or poses a serious safety hazard

Any decision made under this policy including a decision not to respond to complaints or enforce By-law, and also including a decision made in consultation with the Chief Administration Officer may, at any time, be revisited.

5. Receipt and Confirmation of Complaint

Upon receipt of a Formal Complaint, staff shall open an enforcement file in the Municipality's electronic document management system (Laserfiche – P01). Staff shall encourage complaints to describe, in as much detail as possible, the matter in writing and in their own words; detailing who, what, why, when and where and the nature of the situation.

Staff should assure the complainant that their name and any personal information provided by them to the Municipality will remain in the strictest of confidence, in accordance with the Municipal Freedom of Information and Protection of Privacy Act and will not be revealed to anyone unless ordered by a Court or other body of competent jurisdiction.

Upon receipt of the complaint, an Officer will conduct a preliminary review of the complaint to verify the accuracy of the information provided and research any supporting documentation which may be available in Municipality records. An Officer may contact the complainant, if necessary, for further details or the matter or to clarify information that was provided in the Formal Complaint.

6. Investigation

An Officer shall attend the site to witness and record the activity to determine if a By-law contravention exists. If the Officer determines the matter is not a contravention of any by-law or other statute that the Municipality is responsible for enforcing, staff will advise the complainant, and update the electronic file created in Laserfiche with the appropriate details of the investigation and resolution of the matter.

7. Enforcement – First Stage

If an Officer determines that a violation exists, he or she may proceed as follows:

- i. In the case of situations where Council has established set fines for violations, an Officer may, upon confirmation of the existence of a violation, and at their discretion immediately issue an offence notice/ ticket; or
- ii. The Officer shall provide an initial warning to the violator in person, by telephone or in writing which shall provide a time limit in which voluntary compliance is expected.
- iii. The Officer shall notify any internal department and outside agencies that may have jurisdiction or may be required to assist with or rectify the situation including, but not limited to, the Fire Department, Engineering and Planning, Public Works, Regional Public Health or Ministry of Environment.
- iv. Where provided for by By-law or other statute, an 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 and safety. After the time limit has expired, the Officer shall return to the site to determine if compliance has been achieved.

- v. Upon compliance, staff will record the status of the complaint in the electronic complaint file created in Laserfiche and any relevant details of the resolution.

8. Enforcement – Second Stage

If an initial warning or order has not been complied with, an Officer may determine whether to attempt a second written warning or proceed with the actions necessary to address the matter in accordance with the By-law or any other related statutes. The Officer will determine if:

- i. A second written warning or formal order is to be issued, in which case, the Officer will proceed with giving a final time period in which to comply; or
- ii. If legal action is determined, the Officer will provide the Chief Administration Officer or other staff person responsible for administering the By-law with a recommendation to proceed with legal action through the Municipality's solicitor, when it appears obvious compliance is not forthcoming.

At any stage of the enforcement process, if in the opinion of the Officer or Chief Administrative Officer, that the matter is of significant consequence, the matter may be brought before Council for direction.