



## Policy: Municipal Enforcement Policy

### **Policy Statement:**

The purpose of the policy is to set a consistent approach to municipal enforcement that can be supported by staff and communicated to members of the public.

### **Policy Statement Details:**

The Policy is 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. This policy is intended to apply to both municipal by-laws and provincial statutes which the Municipality is responsible for enforcing.

### **Definitions:**

**Administrator:** The Director of Clerks and Planning Services and/or designate.

**Formal Complaint:** 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 Enforcement Officer.

**Municipal Enforcement Officer:** an individual appointed by the Municipality by by-law for the purposes of municipal law enforcement including, but not limited to, a Chief Building Official, Building Inspector, and By-law Enforcement Officer with the responsibility for enforcing and administering this policy.

**Municipality:** The Corporation of the City of Elliot Lake.

**Provincial Offences Officer:** An individual appointed by by-law of the Corporation of the City of Elliot Lake as a Provincial Offences Officer pursuant to the authority under s. 15 of the Police Services Act, R.S.O. 1990, c.P.15 or designated in writing by a Minister under

Section 1(3) of the Provincial Offences Act, R.S.O. 1990. C. P.33 as a Provincial Offences Officer.

**Spite Complaint**, also known as a **Frivolous and Vexatious Complaint**: 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 Administrator.

### **1.0 Municipal Enforcement Investigation and Enforcement Procedure:**

- 1.1 Upon receipt of a formal complaint, staff shall record the formal complaint in Complaints Log maintained by the Municipal Enforcement Department. In all cases, staff shall encourage the complainant to provide the complaint in their own words, detailing the “who”, “what”, “when” and “why” of the situation. 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, aside from Municipal Law Enforcement Officers, may assist the public by providing by-law information but shall not provide opinions regarding alleged by-law contraventions.
- 1.2 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.
- 1.3 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.

- 1.4 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.
- 1.5 A Municipal Law Enforcement Officer may attend the site to investigate the activity to determine if a municipal by-law contravention exists.
- 1.6 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.
- 1.7 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:
  1. In person;
  2. By telephone;
  3. Email; or
  4. In writing
- 1.8 Notwithstanding section 1.7 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.
- 1.9 Notwithstanding section 1.7 or 1.8 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.
- 1.10 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.
- 1.11 If the warning and/or order has not been complied with within the specified time, a municipal law enforcement office may review the non-compliance with the Administrator. The Municipal Enforcement Officer may also lay charge and issue

an offence notice pursuant to Part I or Part III of the Provincial Offences Act, R.S.O 1990, C. P.33.

1.12 Following discussions with the Administrator pursuant to section 1.11 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.

1.13 Spite Complaints shall not be investigated by a Municipal Law Enforcement Officer.

1.14 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.

1.15 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.

1.16 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.

1.17 The Ontario Provincial Police should be contacted for emergency situations that may also include any suspected criminal activity and/or incidents that may violate other Provincial Statutes.

## **2.0 Level of Involvement:**

2.1 Municipal 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 complaint 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; and
- i) Other enforcement avenues including civil processes.

2.2 Complainants and persons who are subject of a complaint 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 body of competent jurisdiction.

2.3 Pursuant to section 4.2 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*.

### **3.0 Application:**

3.1 This policy shall come into full force and effect on the day it is adopted by the Council of the Corporation of the City of Elliot Lake.