



Township of East Zorra-Tavistock

General Policy Manual

Title: By-law Compliance Policy and Guidelines	
Section: Corporate Policies	Number: GP4.01
Version: 1.0	Review Frequency: Annual
Approved by: Council	Approval Date: April 6, 2016
Application: Provides direction to the Public, Council and Staff on the guidelines for By-law Enforcement activities.	
Notes:	

1. Policy Statement:

The By-law Compliance Department ensures that Township obligations regarding building and property maintenance, safety, health, and occupancy are carried out in a timely, efficient and consistent manner for the benefit of all members of the community.

A failure to comply with a provision of this Policy shall not invalidate any proceeding or any step, document or order in a proceeding otherwise in accordance with any Township by-law or Provincial or other legislation.

2. Compliance Philosophy:

The Township's philosophy is to utilize education and facilitation to efficiently obtain compliance with the Township's by-laws and where necessary, exercise a staged approach to enforcement.

3. Definitions:

Anonymous Complaint - means a complaint submitted with no complainant details including, for example, full name, phone number and address.

Complainant - means the party with a complaint, and that directly makes that complaint to the Township.

Formal Complaint - means a complaint received by Staff, wherein the complainant provides their full name, address, phone number, complaint property information, as well as other pertinent information regarding the complaint, which can be verified by the Officer.

Indirect Complaint – means a complaint relayed to Staff on behalf of, or by someone other than, the person who actually has or wishes to pursue the complaint.

Life Safety - means a building or property that is in an unsafe condition that could result in a hazard to the health or safety of persons in the normal use of the property or building, persons outside the building or property, or persons whose access to the building or property has not been reasonably prevented.

Officer - means a person appointed by the Township or otherwise authorized to enforce the Township's by-laws.

Staff - means collectively the employees of the Township of East Zorra-Tavistock.

Township - means the Corporation of the Township of East Zorra-Tavistock.

Vexatious Complaint - means filing a complaint motivated by ill will or with the intention of causing annoyance, frustration, worry or malice towards another person. Also includes frivolous, retaliatory or spiteful complaints.

4. Overview – By-Laws Enforced:

The By-Law Compliance Department is responsible for the enforcement of the following Township By-laws:

- Adult Entertainment
- Animal Control – more than permitted # of animals, prohibited animals etc.
- Canine Control By-law – dogs running at large, excessive barking etc.
- Clean Yard By-law – unsightly premises, long grass/ weeds, unlicensed/ discarded vehicles etc.
- Fortification of Land By-law – prohibit the excessive fortification of buildings and land
- Hawkers & Peddlers By-law – regulation of door-to-door sales
- No Smoking By-law – prohibition of smoking on Township property
- Noise By-law – regulation of noise
- Nuisance By-law – garbage, fouling property, graffiti etc.
- Parking By-law – overnight parking in winter, exceeding time allocation, improper parking etc.
- Pool Fencing By-law – ensuring proper fencing around pools
- Property Standards – Life Safety issues, public hazards etc.
- Skateboarding By-law – prohibiting skateboarding in certain areas
- Yard Sale Regulation By-law – regulation and limiting yard sales
- Zoning By-law – regulation of land use, buildings, setbacks

5. Other Services:

The By-Law Compliance Department also provides general inquiry and information services to members of the public about the Township's By-laws. By-laws shall be made available on the Township website and provided in hard-copy format at no charge, upon request.

6. Proactive By-law Enforcement

Township by-laws are enforced proactively (without the receipt of a complaint) only where required permits have not be obtained, or where a threat to Life Safety has been identified.

7. By-law Complaint Process:

The Township's process for handling By-law Complaints can be found as Schedule 'A' to this policy.

The Township desires that where at all possible, residents attempt to resolve their by-law concerns directly amongst themselves, prior to contacting the Township for assistance. As such, prior to proceeding on the investigation of a complaint, the Officer will advise the complainant that they should first speak directly with the person causing them the by-law concern. While it remains entirely the prerogative of the complainant to do so, should the person causing them the possible by-law concern discover that a complaint has been made by the complainant without firstly affording them the opportunity to discuss the matter informally, the complainant may have unnecessarily escalated the matter to a point where the overall relationship between the parties may be compromised going forward. Often times, a simple discussion between the parties can go a long way toward resolving the concern at hand.

Filing a Formal Complaint:

The By-law Compliance Department investigates and enforces Township by-laws when a formal complaint is received from a complainant via phone, e-mail or in writing. The Township will only respond to a complaint received directly from a complainant who provides their full name, telephone number, address as well as the address of the complaint and specific details regarding the nature of the complaint.

An identifiable complainant's personal information will be kept confidential by the Township 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.

Indirect and Anonymous Complaints:

As noted above, formal complaints must include certain information, and must be received from the direct complainant. Without this information brought forward in this fashion, the Township would be unable to complete a proper, fulsome investigation, and the matter would likely be considered invalid to prosecute, should it advance to that stage.

Given this, Indirect and Anonymous complaints will be entered into the by-law complaint tracking system, but no formal action can be taken unless the complaint concerns an immediate Life Safety threat. While indirect and anonymous complaints will not be acted upon (except for immediate Life Safety threats), the information may be useful to fully document the issue if a formal complaint is lodged.

Proximity of Complainant to the subject complaint:

Unless a threat to Life Safety is present, complaints regarding the following by-laws will be entered into the by-law complaint tracking system, but will not be investigated, unless the complainant owns or is a tenant of property within a 120 metre radius of the property which is the subject of the complaint:

- Animal Control By-law
- Canine Control By-law
- Clean Yard By-law
- Noise By-law (unless determined otherwise by Staff)
- Nuisance By-law
- Property Standards By-law
- Yard Sale By-law
- Zoning (unless determined otherwise by Staff)

Vexatious Complaints:

Vexatious complaints, as determined by the Officer in consultation with appropriate Staff, will be entered into the by-law complaint tracking system, but will not be investigated unless deemed to be an immediate threat to Life Safety.

Multiple / Continuous Submission of 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 (in consultation with appropriate Staff) will 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 acting on some or all of the complaints. If a decision not to act is reached, this will be conveyed to the complainant in writing.

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

- Life Safety factors;
- Available Township resources;
- Potential impact on the complainant;
- Potential impact of not responding;
- Potential impact on the immediate neighbourhood;
- Complaints that appear or are deemed to be vexatious in nature;
- Resources needed to coordinate involvement with relevant agencies.

Tenant / Landlord Complaints:

The Township receives various complaints from tenants with respect to the properties they are renting. In many of these cases, tenants have actually never formally communicated their concerns to their respective landlords. As such, when a tenant has a possible by-law related complaint regarding a property they are renting, they are first required to submit their concern(s) in writing to their landlord. This written notice should specify the exact by-law concerns held by the tenant, as well as a reasonable date to which the tenant would like the issues rectified by the landlord. If the landlord does not comply with the by-law related concerns after the date specified in the notice from the tenant, the Township will then investigate the matter. It is only after a failed attempt by the tenant to rectify the issues with their landlord directly that the Township will become involved. Complaints concerning Life Safety issues will; however, be investigated promptly.

Complaints Involving Mobile Home Parks:

The Township is often called upon to enforce by-law provisions within Mobile Home Parks. The majority of complaints received are from tenants with concerns about other tenants in the same Park. As such, complaints received from tenants in Mobile Home Parks are also subject to the same procedure note above for Tenant / Landlord Complaints. Only after the landlord fails to address the tenant's by-law related concerns, as advised in writing and within a reasonable amount of time, will the Township become involved. It is the Township's position that even when a mobile home or trailer is owned by a tenant (owns trailer, rents/leases land in the park), all potential by-law issues need to be submitted to the property owner, as set out above, before the Township becomes involved. Concerns involving threats to Life Safety will be investigated promptly.

Neighbourly Disputes:

The Township has become involved in disputes between two or more people where it is clear that Staff's involvement will not be able to achieve a reasonable resolution to their ongoing dispute. At times, Staff has found themselves drawn into these disputes, which may have some "by-law type" complaint components, but are generally more of a 'civil matter' type dispute. Staff is provided with the discretion to decide on the appropriate level of involvement in these types of complaints. The level of involvement may include a decision to suspend further involvement or take no further action in the dispute. This decision will be conveyed to the complainant in writing. In making their decision as to the level or further involvement with the dispute, Staff will have regard to the following criteria:

- Life Safety factors;
- History of attempts by Staff to mediate the matter;
- Reception of the parties to formal mediation by a third party;
- Resources needed to coordinate involvement with relevant agencies;
- The number of unfounded or vexatious complaints;
- Apparent attempts by either party to purposely aggravate the situation;
- The number of complaints or concerns registered that do not fall within the jurisdiction of the Township.

Formal Third-Party Mediation:

If a dispute has been ongoing for some time and it is felt that a resolution is not forthcoming, where/ if appropriate, the provision of formal mediation will be considered by the Township. The Township will assume the costs of the mediator, provided the following conditions are adhered to:

- Both parties need to agree, in writing, to undertake the mediation process;
- The Township shall choose the third party mediator;
- The Township will not become directly involved in the mediation process, nor with any of the details discussed during the mediation;
- If the mediator determines after 3 sessions that dispute resolution is not forthcoming between the parties, the mediator shall communicate this to the Township. The Township shall cover the costs of the mediator owing to that date and have no further responsibility related to formal mediation between the parties;
- Further response by the Township related to concerns brought forward by either party against the other shall be for legitimate by-law concerns only (as determined solely by the Township).

8. Complaint Investigation Process:

The Officer shall investigate the complaint through the following steps:

- 1) The Officer will conduct a preliminary review of the complaint received to verify information and research any supporting documentation which may be available in the Township's records.
- 2) The Officer will contact the complainant for further details or to clarify or confirm information provided with their complaint.
- 3) The Officer will attend the subject site to witness, record and report on the activity subject to the complaint to determine if a contravention exists, if required.
- 4) If the Officer is unclear of a possible contravention, they will seek the advice of appropriate Township Staff. Where necessary, the Officer may be required to contact the Township Solicitor or Township Prosecutor to determine if a contravention exists.
- 5) The Officer will provide the information required to the appropriate party so that an informed determination can be provided.
- 6) If the Officer determines that the matter is not a contravention of any by-law or other statute that the Township is responsible for enforcing, the complainant will be advised of this in writing. The Officer will then enter the resolution date and details into the by-law complaint tracking system, and close the file.

9. Enforcement Process:

If the Officer determines that a violation exists, they will proceed as follows:

First Stage:

In the case of situations wherein Council has established set fines for violations, an Officer may, upon confirmation of the existence of a violation, at his/her discretion immediately issue an offence notice/ ticket. Alternatively, the Officer may 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. The Officer shall also 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, Building Department, Public Works Department, Oxford County Public Health or Ministry of Environment.

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 Life Safety threat.

After the time limit has expired, the Officer shall return to the site to determine if compliance has been accomplished. Upon confirming that the warning or order has been complied with, the Officer will then enter the resolution date and details into the by-law complaint tracking system, and close the file.

Second Stage:

If any warning or order has not been complied with, the Officer may proceed with the actions necessary to address the situation in accordance with municipal by-law or other statutes. Necessary actions may include either:

- a) A second written warning or formal order is to be issued, in which case, the Officer will proceed giving a final time period in which to comply; or
- b) If legal action or prosecution is decided, the Officer will provide the Clerk and/or individual responsible for administering the by-law with a recommendation to proceed with legal action when it appears obvious compliance is not forthcoming.

At any stage of the enforcement process, if, in the opinion of the Officer and with agreement by the CAO that the matter is of significant consequence, the matter may be brought before Council for direction.

10. Reporting to Council:

The Officer shall provide regular reports to Council regarding By-law Compliance activities.

11. Policy Review:

This Policy will be reviewed by Council on an annual basis. This shall be done through the Officer bringing the Policy forward as part of their annual report to Council.

Complaint Based By-law Compliance Process

