

1. PURPOSE

The purpose of this policy is to provide guidance to staff, elected officials, and the public regarding a transparent, consistent, fair, unbiased, and effective process for enforcement, adjudication, and prosecution of relevant By-laws of the County of Brant.

2. DEFINITIONS

By-law Enforcement is the process of promoting compliance with the County's Regulatory By-laws that are established to safeguard and improve the health, safety, and well-being of the public and the community.

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

Director means the Director of Enforcement and Regulatory Services

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

Municipal Law Enforcement Officer includes a provincial offences officer or an employee, agent appointed by Council of the Corporation of the County of Brant to enforce Relevant Law.

Officer means a Municipal Law Enforcement Officer.

Relevant Law means any Municipal By-law established under the Municipal Act or Building Code Act, the Dog Owner Liability Act, or other Provincial Legislation, and as detailed in section 13, the Zoning By-law enacted under the Planning Act.

Supervisor means the Supervisor of Enforcement and Regulatory Services.

3. BACKGROUND

- The goal is to make the County of Brant 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 the community, such as littering, dogs at large, noise, and unsightly properties.
- In supporting this goal, the County's By-law Enforcement Policy aims to achieve voluntary compliance with County by-laws in all instances and to provide enforcement through optimum solutions as needed to maintain community standards and to uphold its By-laws.
- This By-law Enforcement Policy is based on the following four principles:
 - To avoid arbitrary or inconsistent decisions;
 - To ensure similar cases are treated in a similar way;
 - To provide By-law Enforcement Staff with guidance on, and limits to, exercising discretion;
 - To provide the public with clarity and details on how and why enforcement decisions have been made.

4. 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;
- Clear, consistent, and available public information regarding By-laws and how to make complaints;
- A process for receiving, assessing, and responding to complaints in a timely manner;
- Consistently applied investigative measures that establishes a clear factual basis for enforcement;
- Adequate notice or attempted notices 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;

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

5. SCOPE

This policy applies to all County of Brant employees, Council Members, and members of the public.

6. BY-LAW ENFORCEMENT POLICY

6.1 General Provisions

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

- In responding to formal complaints, except in cases related to public health and safety matters, the highest priority will be to respond to valid complaints;
- During the regular course of their duties, Municipal Law Enforcement Officers may actively patrol and seek out by-law infractions for issues of public health and/or safety as identified in this policy;
- It is not possible to actively ensure that all of the County's various regulatory By-laws are being complied with at all times. Enforcing the County's own By-laws is, therefore, discretionary, and not mandatory;
- With the exception of parking enforcement or high priority matters of public health and safety or observations of the commission of an offence as identified in this policy, the enforcement of County By-laws shall be complaint based;
- The County of Brant promotes an enforcement philosophy that seeks voluntary compliance, which is often achieved through education, compliance within a reasonable timeframe and enforcement;
- Compliance may be encouraged through notification of fines, orders and other enforcement measures associated with the offence;
- Council is not involved in any way with the sanctioning of an investigation or deciding who shall be investigated;
- Some complaints may be considered as a civil dispute between property owners. These will not be acted upon by Enforcement Staff unless there is an element of public safety involved.

6.2 Enforcement Options

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

- Prosecutions under Part III of the Provincial Offences Act;

- Issuing Provincial Offence Notices under Part I of the Provincial Offences Act;
- Issuing Penalty Notices or Penalty Orders under the Administrative Penalty System;
- Issuing and executing Orders as authorized by law and adding costs to the tax roll or against the property;
- Civil Proceedings.

6.3 Confidential Information

- Personal information collected by the County as a result of a 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-56. (MFIPPA)
- County Staff will only collect personal information that is necessary for the monitoring and enforcement of a by-law infraction.
- 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.
- The anonymity and confidentiality given to requestors and alleged offenders cannot be assured if the investigation results in court, an audit, or similar proceedings.
- While the investigation is on-going or while a resulting matter is before the courts, no information regarding the matter will be made available to the public or the requestor.
- The name and any personal information provided by the complainant or person who is the subject of the complaint shall remain in the strictest confidence and shall not be intentionally divulged to any member of Council, non-essential municipal staff, the public or media unless ordered by the Information and Privacy Commissioner of Ontario, a Court or other tribunal or body of competent jurisdiction.

6.4 Applying Principles of Proportionality, Equity and Consistency

Municipal Law Enforcement Officers aim to provide consistent enforcement and where discretion is used, will apply principles of proportionality, equity, and consistency in By-Law Enforcement decisions by:

- Considering whether an enforcement measure is proportionate to the harm caused by the violation;
- Considering whether a person's circumstances would make enforcement unjust and;
- Considering whether an enforcement measure is consistent with policy and past practice.

Proportional Enforcement

- 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. Alternatively, dog bites with injuries may require a higher level of enforcement.
- Repeat offenders are subject to a higher degree of enforcement to encourage future compliance with the Relevant Laws.

Equitable Enforcement

- By-law enforcement action will be equitable – that is, applied in a way that is fair and equitable. This means that Municipal Law Enforcement Officers will consider a person’s circumstances and ability to comply before determining whether enforcement is appropriate and what enforcement tools they should use to gain compliance. This does not mean that By-laws cannot be enforced against disadvantaged individuals. Rather, equity is a principle of fairness in the Municipal Law Enforcement Officer’s discretion to determine whether and how to enforce County By-laws and gain compliance.

Consistent Enforcement

- Consistency is an important part of a fair By-law Enforcement process and a key principle of this policy. Similar cases will be treated in a similar manner by following a generally consistent approach to By-Law Enforcement.
- Municipal Law Enforcement Officers 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, Officers should consider whether there is a compelling reason given the circumstances to deviate from policy and past practice.
- A different enforcement approach may be justified if an individual has a past history of non-compliance or if the violation(s) is more severe than other cases, or the circumstances would make enforcement in the usual way unjust.

6.5 Making, Receiving and Recording Complaints

Reporting Infractions

- Any person who has reason to believe that an infraction of a Relevant Law has occurred, may report the matter to the By-Law Enforcement Division in the manner and form described in this policy.

- It is important to note that a person who reports an infraction may be summonsed to testify before a court or tribunal in the prosecution of an alleged contravention of a Relevant Law.

Method of Making a By-law Complaint

- By-law complaints may be submitted in person at the Paris or Burford Customer Service Office, over the phone, in writing by way of the prescribed complaint form found online on the County website or via email.
- All By-law complaints will be tracked in the enforcement database.
- Complainants shall provide their full name, their address, contact information (valid email address or phone number) and a detailed description and address of the infraction/complaint. Any supporting evidence such as pictures or videos may be uploaded along with the on-line complaint form and may be used as evidence in any prosecution.
- Incomplete or anonymous complaints will not be accepted, and no investigation will be conducted unless an element of safety is involved.
- Residential tenants will be required to provide written proof that they have notified their landlord of any property standard violations before lodging a complaint with By-law Enforcement.
- All complaints will be assessed and processed in accordance with the "Service Level Matrix" as set out in this policy.
- Unless there is a safety issue that requires immediate action, Officers are not to accept complaints from residents when in the field. Complainants will be advised to submit their complaints in accordance with this policy.

Responding to a By-law Complaint

- Municipal Law Enforcement Officers will acknowledge the receipt of a valid By-law complaint to the complainant within 24 hours.
- The complainant will be provided with an overview of the next steps and when to expect a response on the status of their concerns.
- The complainant will be provided a case number to reference in future correspondence with Municipal Law Enforcement Officers.
- Municipal Law Enforcement Officers will communicate to the complainant that some By-law matters may take a lengthy amount of time before being resolved and may be deemed a civil matter in some instances.
- If requested by the complainant, Municipal Law Enforcement Officers will provide the complainant with an update once the complaint has been closed.

Recording a By-law Complaint

- All complaints shall be recorded in the County By-Law Enforcement database and all included documents and or evidence will be attached in the database.

By-law Enforcement Officer Actions

- All action, inspections and steps to resolve a By-law matter by Municipal Law Enforcement Officers shall be documented in the complaint database including the date of any notices filed, and the date the case is considered closed.

7. COUNCIL INVOLEMENT

- Council Members will respect and abide by the legally recognized principle that Municipal Law Enforcement Officers have a duty to enforce and prosecute Relevant Laws in a manner that is fair and impartial and in a manner that is independent of political direction.
- Council Members will respect that Municipal Law Enforcement Officers have an independent discretion to make enforcement decisions based on their knowledge, experience and educated judgement.
- Council Members will acknowledge that the independence of a Municipal Law Enforcement Officer includes, for example, the discretion to investigate a matter (or not) and to issue a ticket or fine (or not).
- Council Members will not interfere with a Municipal Law Enforcement Officer in the exercise of their duties or attempt to influence the actions of an Officer.
- Consistent with the provisions of the Code of Conduct for Members of Council, members shall refrain from making requests or statements or taking actions that may be construed as an attempt to influence the independent administration of justice.
- As with any other person, a Council Member who has reason to believe that an infraction of a Relevant Law has occurred and has direct (firsthand) knowledge of the infraction, may report the matter to the By-Law Enforcement Division.
- Council Members will refrain from relying on second-hand information as the basis of their complaint. If information about the alleged infraction originates from a third party, the Council Member should explain the reporting infractions procedures as outlined in this policy.
- Upon submitting a complaint, a Council Member shall be treated with the same courtesy and with the same restrictions on access to information, as would any other complainant.
- Council Members shall refrain from forwarding third party communications or complaints to a Municipal Law Enforcement Officer for a response.
- With respect to enforcement of Relevant Laws, Council may:

- From time to time, establish, amend, or repeal Municipal By-laws;
- Establish the budget for and policies related to the enforcement of Municipal By-laws;
- At meetings of Council, ask general questions of, and receive information from, the CAO, General Manager of Emergency & Protective Services or Director of Enforcement and Regulatory Services, relating to the enforcement activities of the Municipality.

8. FRIVOLOUS OR VEXATIOUS COMPLAINTS

- For the purpose of this policy, a complaint is frivolous when it is trivial in nature or does not have a proper or justified cause. A complaint is vexatious when it is perceived to be pursued in a manner that is malicious, intended to embarrass or harass the recipient, or intended to be a nuisance.
- Examples of what might be considered frivolous or vexatious complaints are provided below. The list is not exhaustive, nor does a single behaviour or incident on its own necessitate the application of this section. Generally, the complainant initiates the request with malicious intent or is part of a pattern of conduct that amounts to abuse of the complaints process, and likely that more than one of these factors are relevant:
 - Prolonged submission of obsessive requests with high volume and frequency of correspondence to one or more County staff members, through one or more customer service channels;
 - Requests for information that the requester has already seen, or clear intention to reopen issues that have already been considered and concluded;
 - Where complying with the request would impose significant burden on the Corporation in terms of expense, and negatively impact the ability to provide service to others;
 - Where the requestor states that the request is actually meant to cause maximum inconvenience, disruption, or annoyance;
 - Where the request lacks any serious purpose or value. An apparent lack of value would not usually be enough on its own to make a request vexatious, but may when considered with other examples;
or
 - Harassing the Corporation or individual staff members. This could include with very high volume and frequency of correspondence or making requests with accusations and complaints;
 - Lodging more than (3) complaints per week in response to a complaint made against them;
 - Refusal to cooperate with the investigation process while still wanting their complaint to be resolved;

Determination of Frivolous or Vexatious complaints

- The Director of Enforcement and Regulatory Services is responsible for reviewing the information provided by the Supervisor in a timely manner and determining whether a complaint is frivolous or vexatious.
- The Director will consider information provided by the Supervisor on an individual basis, and the final decision to classify the complaint as frivolous or vexatious will be made by the Director in consultation with the Supervisor and involved staff members. The Director will:
 - Within 10 business days of the receipt of the complaint, review the information provided by staff and determine whether the customer's behaviour warrants the application of restrictions in this policy;
 - Work with staff to determine appropriate restrictions, to determine an appropriate length of time for the restrictions and to establish a review date for removing, modifying, or continuing restrictions;
 - Notify their General Manager and other relevant staff of the situation and proposed restrictions;
 - Notify the Mayor and/or individual Ward Councillors depending on the nature of the request and whether it originated within the Office of the Mayor and Council;
 - Ensure that all relevant staff are made aware of any restrictions imposed on an individual and the length of the restrictions.

APPLICATION OF RESTRICTIONS

- When a complaint is deemed to be frivolous or vexatious, restrictions may be tailored to deal with the individual circumstances and may include (but not limited to) one or more of the following:
 - Placing limits on the number and duration of contacts with staff per week or month;
 - Offering a restricted time slot for necessary calls;
 - Limiting the customer to one method of contact (telephone, letter, email, etc.);
 - Limiting the customer to a single person of contact designated by the County;
 - Requiring the customer to make contact by telephone only through a third party (e.g., solicitor);
 - Closing the file;
 - Informing the customer that further contact on the matter of the complaint/request will not be acknowledged or replied to;
 - Ending all contact with the customer for a specified period; or
 - Other actions as deemed appropriate.

- When the decision has been made to classify requests or complaints as frivolous or vexatious, the subject person (where possible and appropriate) will receive written notification within 30 calendar days from the Director that will:
 - Detail what actions staff have taken under this policy and why;
 - Explain what it means for the customer's contacts with the County; and
 - Advise how long the restrictions will last and when the decision will be reviewed.

Review of Restrictions

- The complainant will have the ability to make one appeal within 30 calendar days from them receiving the written correspondence from the Director regarding the decision to impose restrictions, by addressing their concerns in writing to the CAO.
- The Director will provide a summary of the appeal and all relevant background information to the CAO. Upon review, the CAO may confirm, rescind, or amend the restrictions. The CAO's office will communicate the appeal decision to the complainant in writing within 30 calendar days of the decision.
- In the event that a complaint cannot be resolved through the process outlined within this policy, the County may recommend that a complaint be referred to the Provincial Ombudsman's Office and the County file will be deemed closed.

9. COMMUNICATING ENFORCEMENT DECISIONS

- Municipal Law Enforcement Officers will provide a person affected by and enforcement decision with reasons for enforcement that:
 - Describe the concerns that led to the enforcement action and the evidence supporting those concerns;
 - Set out the By-law section on which the decision is based;
 - Are clear and easily understood by the person affected by the decision; and
 - Provide information about options for review or appeal of the decision. (i.e., Property Standards Committee, Licensing Tribunal, Court, Screenings and Hearings)

10. NOTICE PRIOR TO ENFORCEMENT ACTION

- Personal contact, save and except for parking infraction notices, will be the preferred method of communication prior to any enforcement action.
- Municipal Law Enforcement Officers will provide reasonable notice prior to taking enforcement action.
- Notices of violations, letters, and Orders must comply with requirements under relevant statutes and shall include:
 - An explanation of the relevant By-law and how the person is alleged to have contravened it;
 - Potential options or solutions to remedy the infraction(s).
 - Reasonable time limits for compliance; and
 - The potential consequences of failing to respond or comply within the time limits.
- Municipal Law Enforcement Officers will not take enforcement action before the expiry of the compliance time limits set out in a notice or verbal communication unless the matter is a health and safety issue.

11. REASONABLE TIME LIMITS

- Municipal Law Enforcement Officers are authorized to use discretion to extend a time limit if necessary to achieve compliance.
- Officers should not, however, arbitrarily shorten a time limit, except in extraordinary circumstances, and not before attempting to communicate with the resident.
- Officers are required to follow the County of Brant Customer Service policy timelines when responding to voice mail messages or emails.

12. COMPLAINT PRIORITY SERVICE LEVELS

- To ensure adequate resources to investigate all complaints, a Service Level Matrix (Appendix A) will assist Enforcement Staff to assess and prioritize the level of service for each County By-law and violation.
- Service levels will be characterized by:
 - **Patrol** – Periodic patrols in the County of Brant to seek out **high priority** violations;
 - **Proactive** – MLEO will seek to correct **medium priority** violations during the course of their duties;
 - **Reactive** – Investigation will be initiated upon a valid complaint to confirm and correct **low priority** violations.

- **High Priority:** High priority violations are characterized as violations that are highly likely to pose a health & safety issue to the public. The service level for high priority violations are Patrol, Proactive and Reactive as assessed by the MLEO.

High Priority Response Protocol

1. Municipal Law Enforcement Officers shall acknowledge and respond to the complaint or issue on the same day unless otherwise directed by the Supervisor.
2. The Supervisor may call in staff and other external agencies as needed to deal with the issue;
3. The priority may continue until the health and safety issue has been mitigated;
4. Once the health & safety issue has been dealt with, the issue may be downgraded to a medium priority or low priority call if further response is required.

- **Medium Priority:** Medium priority violations are characterized as violations that have a potential to cause health & safety issues to the public or a negative impact to community or the environment. The Service Level for Medium Priority violations is proactive and reactive.

For the purpose of this policy, the pro-active service level means that Officer will seek to correct medium risk violations which are observed during the course of the Officer's performance of duties.

Medium Priority Response Protocol

1. Dealt with forthwith during the commission of the offence.
2. Acknowledge complaint within 24 hours.
3. Assign a case number and conduct investigation within 1-3 business days.

- **Low Priority:** A low priority investigation includes matters that are generally routine and unlikely to cause health & safety issues to the public negative impact to the community or the environment. The Service Level for low priority violations is reactive.

Low Priority Response Protocol

1. Acknowledge the complaints concerns within 24 hours.
2. Assign a case number and conduct investigation within 1-5 business days.

Updating the Service Level Matrix

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

13. ASSESSING COMPLAINT PRIORITIES

- When assessing the priority of the By-law infraction, By-Law Enforcement Officers will consider, but are not limited to, matters such as:
 - Potential risk to public health & safety;
 - Magnitude, nature, and duration of the contravention;
 - History of non-compliance on the property or by the contravener;
 - Potential short and long-term impact on a structure, the community, and the environment;
 - Potential for setting a precedent;
 - Resources available to resolve the matter;
 - Potential costs associated with enforcement action; and
 - The likelihood of obtaining the desired results.

14. ZONING ENFORCEMENT

- Zoning Enforcement under the authority of the Planning Act limit Municipal Law Enforcement Officers to initiate court proceedings for matters of non-compliance as a result of a complaint.
- The fundamental principles contained in this policy generally apply to all County of Brant By-laws. Complaints related to Zoning Enforcement will be investigated in accordance with this section. Zoning Setback complaints will be investigated in accordance with the established procedure.
- Contraventions of the Zoning By-law that create a public health or safety concern, or create a Negative Impact on neighbouring permitted uses, will be addressed as follows:
 - If the health or safety concern or the Negative Impact is a contravention of other By-laws or of Provincial or Federal legislation which provide greater authority to take effective enforcement action to correct the contravention without delay, enforcement of the applicable legislation will be commenced;
 - If the health or safety concern or the Negative Impact is not a contravention of other more effective By-laws or Provincial or Federal legislation, an Order to Comply to the Zoning Bylaw will immediately be issued;

- Failure to comply with the Order will result in charges being laid for contravention of the Zoning Bylaw.
- Contraventions of the Zoning Bylaw which do not create a public health or safety concern, and which do not create a Negative Impact on neighbouring permitted uses, will be addressed as follows:
 - The property owner will be served with a Notice of Violation outlining the details of the violations and informed to take corrective action within (30) days of the Notice or to contact the Planning Division to investigate the planning process to legitimizing the use;
 - After the 30 days period has lapsed, the Municipal Law Enforcement Officer will conduct the necessary follow-up to determine what steps, if any, the owner has taken to comply with the Notice of Violation;
 - If the property owner has not taken any action or confirms that they have no intention in filing a planning application to legitimize the use, the Municipal Law Enforcement Officer may proceed with the filing of charges after the established compliance period stipulated the Notice of Violation;
 - If not in compliance after 30 days, the property owner will be served with a written Order to Comply with the Zoning Bylaw directing them to comply with the Zoning By-law within (30) days or file a complete planning application by the established date, not exceeding 180 days. The 180 period may be extended at the Municipal Law Enforcement Officer's discretion for extenuating circumstances related to the Planning process including but not limited to the completion of technical studies such as Environmental Impact or Archaeological Assessments or required third party approvals;
 - Failure to comply with the Order by the date specified in the Order will result in charges being laid;
 - If the planning application is filed subsequent to charges being laid, prosecution of the matter will be adjourned pending the outcome of the planning process and any appeals, provided that the process proceeds without undue delay, the use is not altered or expanded, does not create a public health or safety concern, and does not create a Negative Impact on neighbouring properties;
 - If, upon conclusion of the planning process, appeals and hearings, the use is not legalized, a property inspection will be conducted;
 - If it is determined that the property remains in contravention of the Zoning Bylaw and charges have not been laid, a letter will be sent by the Municipal Law Enforcement Officer advising that charges will be processed within 30 days of the date of the letter;

- Failure to comply will result in charges being laid for contraventions of the Zoning Bylaw;
 - If the planning application is approved, and charges were issued, the County may, at their sole discretion withdraw the charges before the Court and close the complaint.
- For the purposes of Zoning policy, “Negative Impact” shall mean there is evidence of harm or material discomfort to any person, an adverse effect on the health of any person, impairment of the safety of any person, loss of enjoyment of normal use of property, or interference with normal conduct of business.

15. APPLICATION

- This policy shall come into force and effect on October 1, 2024 upon adoption by Council. CPS 2008-01 and the zoning enforcement policy adopted by Council on March 28, 2017 are repealed.

16. REVIEW CYCLE

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