



# POLICY & PROCEDURE MANUAL

<b>SECTION</b>	Administration	<b>EFFECTIVE DATE</b> December 14, 2021
<b>SUB-SECTION</b>	By-law Enforcement	<b>REVISION DATE</b>
<b>SUBJECT</b>	By-law Enforcement Policy Statement	
<b>APPROVAL</b>	Council Resolution 2021-12-11	

**PURPOSE:**

The Town of Grand Valley recognizes the need to provide a policy statement and procedure for handling municipal by-law complaints received by the Town, to ensure the standardized, thorough, prompt and courteous receipt, processing, investigation and resolution of complaints.

**POLICY STATEMENT:**

The Town is committed to equitable delivery of municipal by-law enforcement services. The goal of these services is to achieve compliance with municipal by-laws through education and, where necessary, enforcement.

The Town shall operate on a reactive, compliant-based process regarding municipal by-law enforcement, except for violations that are obvious, malicious, or pose an immediate threat to health and safety.

**LEGISLATIVE AUTHORITY:**

This policy is written in accordance with the *Municipal Act, 2001* S.O. 2001 c.25, the *Municipal Freedom of Information and Protection of Privacy Act* and Town of Grand Valley By-laws.

**DEFINITIONS:**

The following definitions shall apply within this policy:

**Administrator** means the Chief Administrative Officer/Clerk-Treasurer of the Corporation of the Town of Grand Valley.

**Complaint** means a written complaint received by the Town, either in person or through electronic means, wherein the Complainant provides their full name, address, phone number and the nature of the complaint that can be verified by the Municipal By-law Enforcement Officer. Complaints shall be documented using the required form (be it paper or electronic) and submitted to the Town.

**Complainant** means the person submitting the Complaint.

**Frivolous or Vexatious Compliant** means a Complaint submitted with ill will or with intention of malice towards another person and may include retaliatory complaints and civil disputes. Frivolous or Vexatious Complaints 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.

**Municipal By-law Enforcement Officer (MLEO)** means a person appointed by the Town for the purpose of municipal by-law enforcement, including but not limited to a Building Inspector, By-law Enforcement Officer, Police Officer and a person authorized by Council or an assigned individual with the responsibility of enforcing and administering this policy.

**Municipal Staff** means an employee of the Town other than an Administrator or Municipal By-law Enforcement Officer.

#### **PROCESS:**

1. The Town shall only respond to complaints received from a Complainant who provides their full name, address, telephone number and nature of the complaint in writing. Anonymous and/or incomplete complaints shall generally not be investigated.
  - 1.1. A Municipal By-law Enforcement Officer (MLEO) 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 or is an obvious or malicious violation of a municipal by-law. The decision to investigate without a complaint shall be at the sole discretion of the MLEO.
2. Municipal Staff may assist the public by providing by-law information but shall not provide opinions regarding the appropriateness of any proposed activity.
3. 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. Persons who are the subject of a Complaint are also protected under the *Municipal Freedom of Information and Protection of Privacy Act* and the identity of the person shall not be intentionally divulged to any individual member of Council, non-essential municipal staff, the public or media unless so ordered by a Court or other tribunal body of competent jurisdiction.

- 3.1. At the discretion of the Administrator, Council may be advised of personal information regarding a Complaint during an In Camera session of Council or under confidence of the Town Solicitor.
- 3.2. Once a complaint has been filed, other than for the acknowledgement of receipt of the complaint, confirmation or details of the nature of the complaint and whether action or no action shall be taken, the Complainant shall not be provided with follow-up, involvement, information or correspondence regarding the complaint, as the process is protected by the *Municipal Freedom of Information and Protection of Privacy Act*.
4. When a person wishes to file a Complaint, Municipal Staff shall provide them with a copy of the applicable form to complete, in either paper or digital format. The form may be completed and submitted digitally to the Administrator by email or as a paper document dropped off at the municipal office. If an online process is implemented for receipt of complaints, Complainants may choose to use this option as well.
5. Upon receipt of a complaint, the Administrator shall review the complaint and if deemed appropriate for further review, shall assign the complaint to the applicable MLEO within two business days of receipt.
6. The MLEO shall conduct a preliminary review of the Complainant to verify the information provided and research any supporting documentation that may be available in the municipal records.
7. The MLEO may contact the Complainant, when necessary, for further details or to confirm or clarify information provided within the formal Complaint.
8. The MLEO may attend the site to investigate the activity to determine if a by-law contravention exists, if applicable or appropriate. Such site visit will take place within three business days of their receipt of the complaint.
  - 8.1. During the site visit, the Officer shall:
    - Attempt to contact the property occupier upon arrival to identify themselves and the purpose of the site visit. If the occupier demands that the MLEO leave, the MLEO will leave and return at a time arranged when an OPP officer can accompany the MLEO (Municipal staff cannot assist with an enforcement matter). If the occupier is not home, the MLEO will continue with the inspection.
    - With occupier consent, or if no one is home, or with OPP escort, the MLEO will inspect the property to objectively review the complaint and alleged infractions to determine if any evidence of the infraction exists. Additionally, the MLEO will consider if other by-law infractions are occurring. Note: the MLEO shall not enter a dwelling unless the occupant is home or unless accompanied by the OPP and following any due process required for entry of a premises.

- The MLEO will take photographs with time stamp setting turned on and samples of material related to the alleged infraction, and the MLEO shall record observations and steps taken during the inspection in the MLEO's notebook.
  - Upon concluding the inspection, if no one was home, the MLEO will leave a business card in the door with a request that the occupier call the MLEO to discuss the reason for the inspection.
9. In consultation with the Administrator, the MLEO may seek the advice of a municipal prosecutor or municipal solicitor if required, or the appropriate Municipal Staff member. If doing so, the MLEO may provide information required to the appropriate party necessary to make an informed determination and, where necessary, the appropriate action initiated.
10. Where a violation of a by-law is determined, excluding set fine situations, or documented, chronic violations or where otherwise warranted, the MLEO shall provide an initial warning and/or order to the person against whom the Complaint was made by either personal delivery, email or registered mail.

The written warning/order shall contain:

- details of the infraction,
- references to the by-laws that have been violated,
- steps to correct the violation,
- a deadline by which to remedy the situation, and
- contact details for the MLEO should the property owner wish to discuss the matter.

The deadline shall be determined based on the nature of the violation(s), typically from one to two weeks from the date that the warning/order was issued. Such longer deadline may be stated at the MLEO's discretion if the situation so warrants a longer remedy period.

This warning and/or order shall be recorded in the Town's By-law Enforcement database and a copy placed in the applicable property roll file.

11. Nothing in this policy precludes the MLEO from immediately issuing an offence notice/ticket in situations wherein set fines have been established for violations of a municipal by-law.
12. Nothing in this policy precludes the MLEO from issuing an emergency order to remedy a violation in lieu of the initial warning when such a violation poses an immediate threat to health or safety.
13. Within three business days of the expiration of the warning/order, the MLEO shall inspect to determine if the property is now in compliance with by-laws. If it is, the MLEO shall document this finding and close the case. If it is not, the MLEO shall discuss the situation with the Administrator to decide next steps on a case-by-case basis.

- 13.1. If the decision is to issue a final warning letter, the MLEO shall determine a final date to achieve compliance.
- 13.2. If the decision is to take enforcement action because obvious compliance is not forthcoming, the Administrator shall direct the MLEO or applicable persons to proceed.
- 13.3. The Administrator may bring the matter before Council for direction if, in the opinion of the Administrator, the matter is of significant consequence to the municipality.
- 13.4. In making the decision on the appropriate level of response to complaints, all staff involved will have regard to the following criteria:
  - Safety factors
  - Available resources
  - Potential impact on the complainant
  - Impact on the immediate neighbourhood or the larger municipality
  - Complaints that appear to result from a vendetta or retribution, or are otherwise deemed frivolous or vexatious
  - Offer of formal remediation.
14. Any decision made under this policy, including a decision not to respond to a compliant or enforce a by-law or a decision of the Administrator, may at any time be revisited.
15. In addition to or in lieu of municipal by-law enforcement proceedings by the Town, persons, complainants, or subjects of complaints may have other independent legal rights that may be explored and pursued by said persons.
16. The Ontario Provincial Police are responsible for emergency and criminal situations. The Public shall be directed to contact the OPP-Dufferin Detachment or to call 911 (depending on the severity of the situation) to deal with issues including, but not limited to, loitering, trespassing, noise-related neighbour or domestic disputes, allegations of drug activity, vandalism, other possible criminal activity, or any matter considered an immediate threat to personal safety.

### **FRIVOLOUS OR VEXATIOUS COMPLAINTS**

1. Frivolous or vexatious complaints or complaints based on ongoing neighbour disputes shall not be investigated by the MLEO unless deemed to be an immediate threat to health and safety.
2. 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 MLEO, in consultation with the Administrator, is given the discretion to decide on an appropriate level of response to such complaints.
3. If a compliant comes forward more than three times on a matter that the MLEO has already dealt with, the MLEO, in consultation with the Administrator, may deem the complaint to be frivolous or vexatious.

4. If a complaint is deemed frivolous or vexatious, 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 some or all of the complaints.
5. If a decision not to act is reached, this decision shall be conveyed to the Complainant in writing.

### **COUNCIL OVERSIGHT**

Council shall establish overall priorities for enforcement, enact by-laws, adopt by-law enforcement policies and shall provide such direction as required, but shall not be involved in the day-to-day by-law enforcement decisions.

### **APPLICATION**

1. This policy shall come into full force and effect on the day it is adopted by the Council of the Corporation of the Town of Grand Valley.
2. This policy shall be revised as deemed necessary.