



Town of Penetanguishene Policy/Procedure

Policy Name: Municipal Law Enforcement Procedure		
Policy Division: P&D	Department: BYLAW	Policy Number: 001-2021
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Supersedes:		Date Approved by Council: April 14, 2021
Corporate Policy (Approved by Council)		[X]
Administrative Policy (Approved by CAO)		[]
Department Policy or Standard Operating Procedure (Approved by Director)		[]
Related Documents/Legislation:		

PURPOSE:

The purpose of this policy is to provide guidance to staff, elected officials and the public regarding by-law enforcement policies and procedures in the receipt of complaints and the initiation of investigation and enforcement proceedings related to regulatory by-laws in the Town of Penetanguishene. Council has the sole discretion of deciding which by-laws to enact and enforce.

The By-law Division provides both proactive and reactive levels of by-law enforcement services to the residents of the Town of Penetanguishene. Primarily, reactive enforcement entails responding to written complaints as they are submitted by members of the public. Proactive enforcement involves staff taking the initiative for issues involving the health and safety of the residents and visitors of the Town of Penetanguishene or other by-law contraventions that are deemed detrimental to the overall image of the Town.

By-laws have a profound and direct impact on the quality of life, health and safety and the reputation of our community. This policy will ensure standard, thorough, prompt and courteous receipt, processing, investigation and resolution of complaints.

BACKGROUND:

The By-law Division consists of one full time Municipal Law Enforcement Officer and a seasonal contract position. The Supervisor of Municipal Law Enforcement is the Director of Planning and Community Development. During the summer (May to September) months, a By-law Enforcement Officer may be employed on a seasonal contract basis to assist in the enforcement of the by-laws.

The goal of Municipal Law Enforcement is to achieve compliance through information, education and voluntary compliance. If this is not achievable then the MLEO takes appropriate action such as the laying of charges under the provisions of the Town By-

laws. Enforcement action may also include direct enforcement where the Town may remove or resolve a non-compliance at the property owner's expense.

Municipal Law Enforcement ensures the proper and consistent enforcement and compliance with the Town's regulatory by-laws including but not limited to:

- Animal, Cats and Pigeon Control By-laws, including contract supervision
- Business Licensing By-law
- Civic Addressing By-law
- Clean Yards By-law
- Consolidated Traffic & Parking By-law, including disabled parking enforcement and towing
- Fire-related By-laws, including Open Air Burning By-law, Fireworks, Fire Routes
- Firearms Discharge By-law Hours of Operation & Code of Conduct for Town Parks and Public Recreation Facilities
- Noise By-law
- Noxious Weeds By-law and Weed Inspector duties under the Weed Control Act
- Signs and Other Advertising Device By-law, including issuance of permits as applicable
- Parks Regulation By-law
- Pool Fence By-law
- Extended Use of Sidewalks By-law
- Water Regulation By-law, including water restrictions
- Zoning By-law

All other municipal regulatory and licensing by-laws as may be enacted from time to time.

By-laws enforced by others, includes:

- | | |
|------------------------------|----------------------------------------------|
| • Animal Control | Huronia Animal Control on a contract basis |
| • Building | Chief Building Official |
| • Emergency Plan Coordinator | Fire Chief as Community Emergency management |
| • Discharging of Firearms | O.P.P. |
| • Lane designation | O.P.P. |
| • Property Standards | Chief Building Official (for structural) |
| • Sewers Connection | Public Works Department |
| • Sewers Discharge | Public Works Department |
| • Site Alteration | Public Works Department |
| • Destruction of Trees | Public Works Department |

SCOPE:

The policy applies to all employees of the Town of Penetanguishene and members of the public.

DEFINITIONS:

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 office closures.

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

Frivolous Complaint means a complaint that is reasonably perceived by Town staff to be (a) without reasonable or probable cause, (b) without merit or substance or (c) trivial.

Municipal Law Enforcement Officer (MLEO) includes a Provincial Offenses Officer or an employee, agent appointed by the Council of the Corporation of the Town of Penetanguishene to enforce the municipal bylaws of the Town.

Patrol Service means a MLEO tasked with periodic or routine patrols through all or parts of the Town to seek out violations. Patrol levels of service are a low priority.

Proactive Service means a violation observed during course of duties where a MLEO will take necessary steps to correct the violation. Proactive levels of service are medium priority.

Reactive Service means a MLEO will initiate an investigation upon notification of a valid complaint. Reactive level of service are high priority.

Town By-law means a by-law enacted by the Town of Penetanguishene.

Vexatious Complaint means a complaint that is frivolous, and which is pursued in a manner that is reasonable perceived by Town staff to be (a) malicious, (b) intended to embarrass or harass the recipient or (c) intended to be a nuisance or bad faith purposes.

Valid Complaint means a complaint that describes the location and general nature of a potential by-law contravention which includes the complainants name, address and email address or telephone number and which is not a vexatious complaint.

BY-LAW PROCEDURES:

Method of Making a Complaint

All by-law complaints from the public, staff and members of Council shall be made **in writing** by the complainant on the prescribed form (*Appendix B*) or by email containing the information contained on the prescribed form. **With the exception of Town staff, all complainants must live or own property in the Town of Penetanguishene.** The complaint form is a standardized form that must be complete and contain particulars of the alleged breach and be signed by the complainant. These complaint forms are available on the Town's website, by mail or can be picked up and filled in at the office. Complaints that are left by voicemail messages will not be investigated..

Receiving and Responding to a By-law Complaint

Complaints are to be acted upon as quickly and responsibly as possible. Complaints are required in writing in order to alleviate frivolous or vexatious complaints. A signature protects the Town from being accused of discriminating against a citizen. Personal information including the complainant's name shall be kept confidential, however, if the matter goes to court, the complainant could be called to testify and give evidence to substantiate the Town's position.

Staff will acknowledge the receipt of a complaint to the complainant no later than two (2) business days. The complainant will be provided with an overview of the next steps outlined in the by-law being investigated. The complainant will be provided with a case number to referent in future correspondences with staff. Communication with the complainant on the length of time (see investigations) to resolve can take time or some will not result in a violation or may be a civil matter and not within the Town's scope.

If an Officer observes a by-law contravention during their duties that poses a Health and Safety risk to either themselves or to the public, they must act upon it. In this case, the Officer shall proceed as you would a regular complaint.

INVESTIGATIONS:

Once a signed complaint has been received on the appropriate form, it is entered electronically into the Town's Record Management System and logged under a daily occurrence report and given a file number for reference. The Officer should refer to the By-law in question and any previous history that maybe logged in the property file to familiarize yourself before you conduct an investigation.

Some occurrences may involve people rather than property or be re-occurring instances that require scheduled monitoring, and the investigation should be focused accordingly. A site investigation may only take place after the receipt of a complaint form within five (5) business days, which is dependent on the nature of the complaint or the ability to schedule a site time visit. The Officer attends the property in question to conduct the investigation. The Officer should conduct an inspection and observe the state of the property as it relates to the complaint in question, remembering to record as much detail as possible in your notebook, and take pictures when possible. The Officer must be sure to identify themselves and the purpose of their visit. When dealing with the occupant, be firm, fair and polite.

Explain the By-law contravention and gather as much information from the party as possible. The Municipal Law Enforcement Officer and By-law Enforcement Officer(s) do not to get involved in a neighbourhood dispute or Civil matters.

****NOTE**** Use your discretion when investigating a complaint. Evaluate the situation and act accordingly. If during your investigation you are threatened in anyway, withdraw from the situation and contact the OPP immediately. **OFFICER SAFETY IS PRIORITY ONE.**

Once an Officer has completed their site investigation, their findings are recorded on an occurrence report and updated to the daily occurrence report. The Officer must determine whether or not a contravention is taking place. Refer to the by-law for details. If expertise lies in another department (i.e., Zoning, Fire or Building), consult with that Senior Manager for guidance. Use that information for your final analysis. If at the end of the investigation, the Officer has found that no by-law contravention has been made, contact the complainant to inform them of your findings. Update the daily occurrence report and your notebook to indicate that the file has been closed.

VERBAL WARNING:

If an Officer has found that a by-law is being contravened and at the time of the onsite investigation the Officer finds it suitable to discuss with the property owner/tenant/persons with authority of the lands a means to comply within a reasonable time period, this may be agreed to when deemed appropriate by the Officer.

NOTICE OF CONTRAVENTION (NOC):

If an Officer has found that a by-law is being contravened, update the daily occurrence report and your notebook and prepare a Notice of Contravention to be sent to the registered owner of the property by registered mail with a copy by hand delivery to the property when deemed appropriated by the Officer.

The notice of contravention is a letter that is sent by mail to the registered owner of the property involved with the contravention. The owner may not actually live at the property but is legally responsible for it. Consult the property records to confirm the ownership of the property. A copy of the NOC should be hand delivered to the property and/or posted on the property when deemed appropriate by the Officer.

The NOC letter will include the roll number and physical address of the property, the name of all registered property owners, the by-law and section of the by-law under which the contravention has occurred, the nature of the offense being committed, the required action to be taken to comply with the by-law, a date of required compliance and a re-inspection date to determine compliance. A reasonable time period set for all by-law infractions for achieving compliance is fourteen (14) days, a re-inspection will occur following the date provided. Circumstances may arise that require a shorter and longer timer period that the Officer may determine at their discretion to achieve compliance. Whenever possible, the MLEO shall follow up if no response is received to confirm delivery and to speak to the owner regarding the infraction and corrective measures. When deemed appropriate, the MLEO may conduct a site visit with the Owner or an agent of the owner to discuss timelines for remedial action.

The Town makes every effort to gain voluntary compliance. When this is not accomplished, a final notice is issued to the owner and a final deadline is issued. The format used is similar to the NOC. If compliance is not gained within the time frame given in the FNOC and no Compliance Date Extension has been received within 48 hours of the compliance date, the MLEO may initiate court proceedings under Part I or Part III of

the Provincial Offences Act. If the situation warrants, the Town may remove or resolve a noncompliance at the property owner's expense.

The procedure above is the process to proceed with when a by-law does not include

ISSUANCE OF PROVINCIAL OFFENCE FINE:

Part I (Set Fine)

Where set fine approval has been received, the officer may issue a Provincial Offence Notice to the defendant. This is a ticket that is issued usually for a first-time offence of a minor matter.

Part II (Parking)

The Town of Penetanguishene has time limit parking in the commercial area, with no parking zones, fire routes and barrier free parking spaces. Refer to the set fine approval for other parking infractions.

The time limit parking is enforced by chalking tires and making note of the time and plate number.

The Officer may exercise discretion during Special Events provided that emergency access is maintained at all times and parking is not creating traffic hazard or blocking access.

Part III (Information)

Part III information is used for more serious offences and for bylaws that do not have set fine approval (e.g., Zoning By-law). This proceeding starts with an information and summons package which is sworn before a Justice of the Peace and alleges an offence. The JP has the discretion to sign the information and summons. It is important to ensure court dates available with the Court office, Town's prosecutor, officers and any witnesses. All Part III documentation should be verified by the Town Prosecutor prior to being sworn before a Justice of the Peace.

Communicating Enforcement Decisions

Staff will provide a person affected by an enforcement decision with reason for enforcement that:

- a) Describe the concerns that led to the enforcement action and the evidence supported by those concerns;
- b) Set out the By-law and provision whereby a decision was based;
- c) Are clear and easily understood by the person affected by the decision; and
- d) Provide information about options for review or appeal.

DRESS:

It is important to remember that while on duty, the MLEO are representatives of the Town of Penetanguishene. Your dress and deportment is as important as your conduct and must reflect the professional standard that is set by the Town. The uniform that is worn by staff must be clean and pressed. The uniform must be worn while on duty only and

must be returned at the end of employment. The uniform must not be worn on personal business other than travel to or from work or during a meal break. The Town does have a Policy regarding dress down Friday. You may dress down on Fridays but must have a Town shirt at work in the case of official business.

During employment with the Town, the Municipal Law Enforcement Officer and By-law Enforcement Officer(s) will be responsible for all items that the Town provides including but not limited to:

OFFICER EQUIPMENT:

Items to be kept in vehicle: Part I ticket book, Part II ticket book (Parking), Short form wording for charges, Victim's surcharge chart, Flashlight, Safety gloves, Rubber gloves, Garbage bags, Blank complaint forms, Emergency phone numbers, Shovel, Dog Licenses (current year in binder), Fire Permits (current year in binder), First aid kit including CPR mask, and Fire Extinguisher

Items to be kept on person: Notebook, charged cell phone, Uniform, Badge and ID Card and Business Cards.

The Municipal Law Enforcement Officer and By-law Enforcement Officer(s) are responsible for the equipment issued by the Town. If equipment is lost or damaged through abuse or neglect, the cost of replacement may be levied against you. If you notice any damage to the equipment, you are to report the damage to the Supervisor.

BY-LAW VEHICLE:

It is the responsibility of the MLEO to assist with the maintenance of the vehicle supplied by the Town. The interior and exterior of the vehicle are to be kept clean. Oil levels are to be checked on a regular basis and fuel is not to be left below $\frac{1}{4}$ of a tank. Gas is to be purchased from Town service centres as directed. Other fluid levels including transmission, brake, and windshield washer are to be checked by monthly and filled as required. Tires and signal lights are also to be checked and replaced or repaired as required. A circle check should be conducted before and after each day's use.

A schedule of vehicle maintenance logbook is located in the glove compartment of the vehicle. All maintenance and/or repairs are to be recorded in the log and appointments for maintenance shall be made in accordance with the schedule.

From time to time, other Departments may submit requests to use the Town vehicle. Requests for use shall be accommodated whenever possible provided it does not interfere with the schedule of the MLEO schedule. All requests will be submitted to and approved by the Director of Planning and Community Development in consultation with the Officer.

NOTEBOOK:

The Officer's notebook is the most important item that you use daily. The prosecution will use it in court as evidence to refresh an Officer's memory of an incident and it will come under cross-examination by the defence. It **MUST** be kept up to date and as accurate as

possible. Record all of daily actions including times, dates, weather and any observations. Record actions taken in your notebook immediately after an incident has taken place or the soonest possible time after. The Notebook is the property of the Town and shall be handed in at the end of contract.