

**THE CORPORATION OF THE  
TOWNSHIP OF EDWARDSBURGH CARDINAL**

**BY-LAW NO. 2019-56**

**“A BY-LAW TO ADOPT A BY-LAW ENFORCEMENT POLICY”**

**WHEREAS** the Municipal Act 2001, SO 2001, Chapter 25, Section 8(1) states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues; and

**WHEREAS** the Municipal Act 2001, SO 2001, Chapter 25, Section 8(2) states that in the event of ambiguity, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed before the Municipal Act, 2001 came into force; and

**WHEREAS** the Municipal Act 2001, SO 2001, Chapter 25, Section 9 gives the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this Act; and

**WHEREAS** the Municipal Act 2001, SO 2001, Chapter 25, Section 11 (2), permits a municipality to pass by-laws respecting the health, safety and well-being of persons; and

**WHEREAS** the Municipal Act 2001, SO 2001, Chapter 25, Section 11(2), permits a municipality to pass by-laws respecting the protection of persons and property, including consumer protection; and

**WHEREAS** the *Police Services Act, RSO 1990*, Chapter P15, Section 15(1), authorizes the Council of any municipality to appoint municipal law enforcement officers to enforce the by-laws of the municipality;

**WHEREAS** Municipal Council deems it advisable to adopt a By-law Enforcement Policy.

**NOW THEREFORE** the Council of the Corporation of the Township of Edwardsburgh Cardinal enacts as follows:

1. That the By-law Enforcement Policy, as described in Schedule “A”, attached hereto and forming part of this by-law, is hereby adopted.
2. That this by-law shall come into force and take effect on the date of passing.

Read a first and second time in open Council this 23<sup>rd</sup> day of September, 2019.

Read a third and final time, passed, signed and sealed in open Council this 23<sup>rd</sup> day of September, 2019.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy Clerk

# **Corporation of the Township of Edwardsburgh Cardinal**



## **BY-LAW ENFORCEMENT POLICY**

## **Section 1. Purpose**

- 1.1** To provide a formal policy and procedure governing the handling of municipal by-law complaints by the Township and to ensure standardized, thorough, prompt and courteous receipt, processing, investigation and resolution of complaints. This policy is intended to apply to both municipal by-laws and provincial statutes which the Township is responsible for enforcing.
- 1.2** The Township is committed to the delivery of by-law enforcement services in a timely and effective manner. The goal of these services is to achieve compliance with Township by-laws through education and also through enforcement.
- 1.3** The Township shall generally operate on a reactive Complaint based process in regards to municipal law enforcement with the exception of a violation that is a threat to health or safety.
- 1.4** By-law enforcement ensures the proper and consistent enforcement of and compliance with the Township's by-laws including but not limited to the following:
- Clean Yard By-law,
  - Parking By-law
  - Animal Control By-law
  - Noise Control By-law
  - Zoning By-Law
  - Municipal Addressing System By-law
  - Refreshment Vehicles By-law
  - Hawkers & Peddlers By-law
  - Other municipal regulatory and licensing by-laws as may be enacted from time to time.

The Ontario Provincial Police are responsible for emergency situations and should be contacted to deal with issues such as loitering, trespassing, noise related neighbor or domestic disputes, possible drug activity, vandalism or other possible criminal activity.

- 1.5** By-laws enforced by others, includes:
- Building By-law – Chief Building Official
  - Entranceways By-law – Roads Superintendent
  - Drainage By-law – Roads Superintendent
  - Supply of Potable Water By-law – Environmental Services Department
  - Water & Waste Water By-law – Environmental Services Department
  - Open Burning By-law – Fire Chief

## **Section 2. Definitions**

- 2.1** "Manager" means the Chief Building Official and his or her designate or successor.
- 2.2** "Complaint" means a Complaint received by the Township.
- 2.3** "Council" means the Council for the Corporation of the Township of Edwardsburgh Cardinal.
- 2.4** "By-law Enforcement Officer" means a person appointed by the Township for the purposes of by-law enforcement.
- 2.5** "Township" means Corporation of the Township of Edwardsburgh Cardinal.
- 2.6** "Spite Complaint", also known as a Frivolous and Vexatious Complaint, means 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 By-law Enforcement Officer has already dealt with. After discussing it with the Manager, the determination of a Complaint being a Spite Complaint shall be at the discretion of a By-law Enforcement Officer.

## **Section 3. Attire**

- 3.1** It is important to remember that while on duty, the By-law Enforcement Officer(s) is a representative of the Township of Edwardsburgh Cardinal. Attire is as important as conduct and must reflect the professional standard that is set by the Township. The officer must wear a Township-branded shirt or jacket while on duty.

## **Section 4. Officer Equipment**

- 4.1** During employment with the Township, the By-law Enforcement Officer(s) will be responsible for all items that the Township provides including; but not limited to:

### **Items to be kept in vehicle:**

- Flashlight
- Safety gloves
- Garbage bags
- Blank complaint forms
- Emergency phone numbers
- First aid kit

**Items to be kept on person:**

- Notebook
- Charged cell phone
- Township shirt
- Badge and ID Card
- Part I ticket book
- Business Cards

**Section 5. By-Law Complaint against Council Member or Township Employee**

- 5.1** Complaints filed against members of Township Council or an employee of the Township with respect to an alleged by-law infraction shall be treated in the same manner as all complaints. Care shall be given to ensure that all records in relation to a complaint against a member of Council or a Township employee remain confidential. The Officer receiving the complaint shall notify the Manager immediately and provide details of the complaint.

**Section 6. Notebooks/Journals**

- 6.1** The Officer's notebook/journal is the most important item used. The prosecution will use it in court as evidence and it will come under cross-examination by the defence. It **MUST** be kept up to date and as accurate as possible. Records are kept of all daily actions including times, dates, weather and any observations. Actions taken are recorded in the notebook immediately after an incident has taken place or the soonest possible time after. The notebook/journal is the property of the Township and shall be handed in at the end of contract or upon demand.

**Section 7. Occurrence Records**

- 7.1** Written occurrence reports are required for every alleged infraction and are to be kept up to date with all pertinent information. The reports are to be kept in the Township's Service Request Management (SRM) software.

**Section 8. Complaint Procedure**

- 8.1** All by-law complaints from the public, staff and members of Council shall be recorded on the prescribed form (*appendix "A"*). The complaint form is a standardized form that must be complete and contain particulars of the alleged breach, and be signed by the person recording the complaint. These complaint forms are available on the Township's website, by mail or can be picked up and filled in at the office. **Anonymous** complaints will not be investigated.

- 8.2** Complaints are to be acted upon as quickly and responsibly as possible.

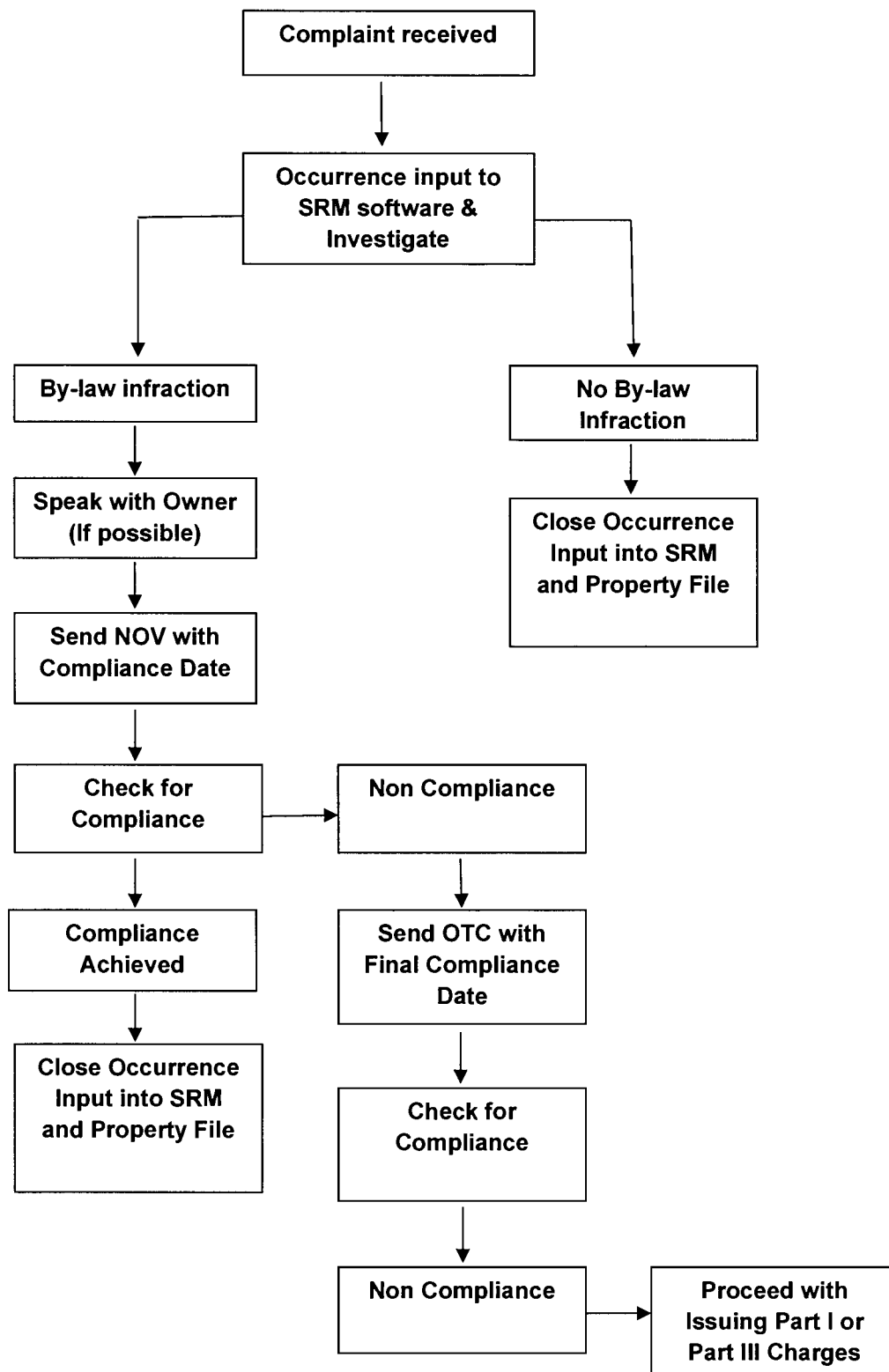
- 8.3** The name and any personal information provided on the complaint form shall be maintained in strictest confidence in accordance with the Municipal Freedom of Information and Protection of Privacy Act and shall not be intentionally divulged to any member of Council, non-essential Township staff, the public or media unless so ordered by a Court or other tribunal or body of competent jurisdiction. However, if the matter goes to court, a complainant could be called to testify and give evidence to substantiate the Township's position.
- 8.4** Pursuant to section 8.1 of this policy; once a Complaint has been filed, staff shall take necessary steps to safeguard information that is protected by the Municipal Freedom of Information and Protection of Privacy Act in providing any follow-up information to complainants. If requests for follow-up information are persistent or appear to be leading to Spite Complaint status, the Bylaw Enforcement Officer may refuse further contact with the complainant on that specific Complaint.
- 8.5** Notwithstanding section 8.2 of this policy; complaints received by the Township will be categorized for the purpose of response. The Categories will be established based on the threat to the public and property, and availability of Township resources and will be as per the following schedule:

<b>COMPLAINT PRIORITIZING SCHEDULE</b>		
Priority Level	Category of Complaint	Response Time
A	Threat to personal safety imminent	N/A – Complaint should be forwarded to OPP for immediate action
B	Threat to property which may affect personal safety	2 Days
C	Threat to property with no personal safety issues	1 Week
D	No threat to person or property	2 Weeks

- 8.6** If an Officer observes a by-law contravention during the course of 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 By-law Officer will prepare the complaint form for filing purposes.

## 8.7 Complaint Procedure

Below is the flow chart that is to be followed when a complaint is received by an Officer:



## **Section 9. Investigation**

- 9.1** Complaints are entered into the Township's Service Request Management software when received, and given a file number for reference. The Officer will refer to the By-law in question to familiarize himself/herself before he/she conducts a site investigation.

The term "site investigation" is the general term that refers to any investigation that is conducted. Some occurrences may involve people rather than property and the investigation should be focused accordingly. The Officer will conduct an inspection and observe the state of the property as it relates to the complaint in question, recording as much detail as possible, and taking pictures when possible. The Officer must identify themselves and explain the purpose of their visit. When dealing with the occupant, the Officer is required to be firm, fair and polite.

The By-Law Enforcement Officer does not get involved in a neighborhood dispute or Civil matters.

If during the investigation the Officer is threatened in anyway, he or she will withdraw from the situation immediately and contact the OPP.

- 9.2** Once an Officer has completed their site investigation, their findings are recorded in the Township's Service Request Management software. Further investigation may be required to determine whether or not a contravention has taken place, including consulting with other Township managers. If at the end of the investigation, the Officer has found that no by-law contravention has been made, he or she will contact the person who filed the complaint form to inform them of the findings. The Township's Service Request Management software and other records will be updated to indicate that the file has been closed and the reason(s) why.
- 9.3** If an Officer has found that a by-law is being contravened, in addition to updating the Township's Service Request Management software and other records, he/she will provide an initial warning to the person by any of the following four (4) methods:
- a. In person (if not at home will leave a written notification);
  - b. By telephone (if phone number is available);
  - c. Email (if email address is available); or
  - d. Prepare and deliver a Notice of Violation by mail.

## **Section 10. Notice of Violation (NOV)**

- 10.1** The Notice of Violation 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.



The NOV 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 and a date of required compliance.

If no response is received within the time period specified in the Notice, the Officer will follow up once to attempt to confirm delivery and to speak with the owner regarding the infraction and corrective measures. When deemed appropriate, the Officer may conduct a site visit with the owner or his/her agent to discuss remedial actions and timelines.

## **Section 11. Order to Comply (OTC)**

- 11.1** The Township makes every effort to gain voluntary compliance. When this is not accomplished, an Order to Comply is issued to the owner and a final deadline is issued. The format used is similar to the NOV. If compliance is not gained within the time frame given in the OTC, the Officer may initiate court proceedings under Part I or Part III of the Provincial Offences Act. If the situation warrants, for example a threat to public health or safety, the Township may remove or resolve a non compliance at the property owner's expense.

## **Section 12. Issuance of Provincial Offence Fine**

### **12.1 Part I (Set Fine)**

Where set fine approval has been received for a by-law, 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.

### **12.2 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 Justice of the Peace has the discretion to sign the information and summons. It is important to ensure court dates available with the Court office, Township's prosecutor, officers and any witnesses. All Part III documentation should be verified by the Township Prosecutor prior to being sworn before a Justice of the Peace.

## **Section 13. Closing an Occurrence**

Once an occurrence has met compliance, the occurrence must be closed and the Township's records updated accordingly.

## Appendix “A”

### Complaint Form

[illegible]

<b><i>How do you suggest the situation be improved or complaint resolved?</i></b>			
<b><i>Office Use Only:</i></b>			
<b>Complaint #</b>			
<b>Received By:</b>		<b>Date:</b>	
<b>Forwarded To:</b>		<b>Date:</b>	
<input type="checkbox"/> Acknowledgement Letter		<input type="checkbox"/> Additional Correspondence	
Date Sent:_____		Date Sent:_____	
Staff Name:_____		Staff Name:_____	
<b>Additional Information:</b>			