



## THE CORPORATION OF THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA

### POLICY & GUIDELINES ON MUNICIPAL BY-LAW ENFORCEMENT

#### POLICY

The municipality of the United Townships of Head, Clara & Maria recognizes the importance of enforcing municipal by-laws.

This policy will provide formal policy and procedure governing the handling of by-law complaints by the Municipality and to ensure thorough, prompt and courteous receipt, processing, investigation and resolution thereof.

Complainants are protected under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) and every complainant will be kept completely confidential and not be intentionally divulged to any member of Council, the public or media.

#### GUIDELINES

##### **DEFINITIONS**

**CAO** means the Chief Administrative Officer for the United Townships of Head, Clara & Maria.

**Clerk** means the Clerk for the United Townships of Head, Clara & Maria.

**Formal Complaint** means a complaint received by staff, wherein the complainant provides their full name, address and phone number that can be verified by the Investigator and nature of complaint in writing using the required form, over the telephone, in person or via email.

**Frivolous** means not having any serious purpose or value.

**Investigator** means a person appointed by the municipality for the purposes of Municipal Bylaw Enforcement including, but not limited to, a Building Inspector and Municipal Law Enforcement Officer.

**Municipality** means the Corporation of the United Townships of Head, Clara & Maria.

**Spite Complaint** means a complaint filed in ill will or with the intention of malice towards another person and may include retaliatory complaints and neighbour disputes.

**Township** means the Corporation of the United Townships of Head, Clara & Maria.

**Vexatious** means having as its only purpose a complaint which causes or tends to cause annoyance, frustration, or worry.

## **PURPOSE**

This policy provides guidance on how employees of the municipality of the United Townships of Head, Clara & Maria addresses a complaint under a by-law of the municipality.

## **POLICY REQUIREMENTS**

The United Townships of Head, Clara & Maria is committed to the thorough, prompt and courteous receipt, processing, investigation and resolution of Formal Complaints under its municipal by-laws.

### **1. General**

1.1. Resolution of violations through municipal/resident co-operation should always be the preferred solution. Escalation to formal court proceedings or other action will be last resort. All violations should be approached with this intent, and the co-operation of the offender should be sought first in every instance.

1.2.

### **2. Complaints**

2.1. The Township will only respond to Formal Complaints received from a complainant who provides their full name, telephone number and address. Anonymous complaints will not be investigated. The municipality will offer assistance and direction with respect to a by-law concern over the telephone, in person, via email or in writing, using the required form (Schedule "A") where practical.

2.2. Complainants are protected under the *Municipal Freedom of Information and Protection of Privacy Act* and every complainant will be kept completely confidential and not be intentionally divulged to any member of Council, the public or media.

2.3. All Formal Complaints will be documented on a Formal Complaints Form (Schedule "A"), where practical, which can be obtained by contacting the municipal office or by visiting the Township's website.

### **3. Online Complaints**

3.1. The Township will respond to Formal Complaints received from a complainant who completes an online form and provides their full name, telephone number, address and email address.

- 3.2. The online form cannot be submitted unless all relevant information is completed in full. Staff will verify with the complainant that all of the information is true prior to commencing the investigation.
- 3.3. Complainants are protected under the *Municipal Freedom of Information and Protection of Privacy Act* and every complainant will be kept completely confidential and not be intentionally divulged to any member of Council, the public or media.

#### **4. Officer Initiated Investigations**

- 4.1. An Investigator may also undertake an investigation on his/her 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.

#### **5. General**

- 5.1. 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 municipal by-law or provincial or other legislation.
- 5.2. Council is encouraged to direct residents with issues regarding by-law enforcement to the Municipal Office or other appropriate staff.

### **PROCEDURES**

#### **1. Receipt and Confirmation of Complaint**

- 1.1. Upon receipt of a Formal Complaint, staff shall record the Formal Complaint in a Complaints Log maintained by municipal employees. In all cases, Staff shall encourage the complainant to describe the matter in their own words, detailing the “who”, “what”, “why”, “when” and “where” of the situation.
- 1.2. The Investigator assures the complainant that their name and any personal information provided by them will remain in the strictest of confidence, in accordance with the *Municipal Freedom of Information and Protection Privacy Act* and will not be revealed to anyone unless so ordered by a Court or other tribunal or body of competent jurisdiction.
- 1.3. The Investigator conducts a preliminary review of the complaint to verify information and research any supporting documentation which may be available in Township records.
- 1.4. The Investigator calls the complainant, when necessary, for further details or to confirm or clarify information provided within the Formal Complaint or to obtain the complainant’s signature on the written Formal Complaint, when necessary.

## **2. Investigation**

- 2.1. The Investigator shall attend the site to witness and record the activity to determine if a contravention exists.
- 2.2. If the Investigator is uncertain whether the circumstances constitute a contravention, he/she may seek input from the Municipal Prosecutor or Municipal Solicitor if required, and/or the individual responsible for administering the by-law.
- 2.3. If the Investigator determines the matter is not a contravention of any by-law or other statute that the Township is responsible for enforcing, Staff will advise the complainant, enter the complaint finalized date on the complaint form and in the Complaints Log, and close the file.

## **3. Enforcement – First Stage**

- 3.1. In case of situations wherein set fines have been established for violations, an Investigator may, upon confirmation of the existence of a violation, immediately issue an offence notice/ticket. In all cases, the Investigator shall identify a suspected violation and the laws having jurisdiction during an initial warning stage and shall notify the suspected violator of a time limit in which voluntary compliance is expected.
- 3.2. Upon determining that there is a violation of a Municipal By-law (excluding set fine situations, documented, chronic violations or where otherwise warranted), the Investigator may proceed to the enforcement stage by providing an initial warning to the suspect/violator by at least one (1) of the following three (3) means:
  - 3.2.1. In person; or
  - 3.2.2. By telephone; and,
  - 3.2.3. In writing.
- 3.3. The Investigator will then document which form of communication he/she used.
- 3.4. The Investigator shall notify any internal departments and outside agencies that may have jurisdiction or may be required to assist with or rectify the situation (i.e. Community Fire Safety Officer, Building Official, Public Works Department, Ministry of Natural Resources and Forestry, Ministry of Environment, Renfrew County Board of Health, the Ontario Provincial Police).
- 3.5. Where provided for by By-law or other statute, an Investigator may issue an emergency order to remedy a violation in lieu of an initial warning if the situation poses an immediate threat to health or safety. The Investigator will notify their immediate supervisor (if applicable) and the CAO immediately.

- 3.6. After the time limit has expired, the Investigator shall return to the site to determine if compliance has been accomplished.
- 3.7. Upon confirming that the warning has been complied with, Staff will enter the complaint finalized date on the compliant form and in the Complaints Log, and close the file.

#### **4. Enforcement – Second Stage**

- 4.1. If suspected violator has not complied with the warning, the Investigator shall review the non-compliance with the Clerk and/or individuals responsible for administering the bylaw, if warranted.
- 4.2. The Investigator decides, based on discussions with the Clerk and/or the other individuals responsible for administering the by-law, whether to attempt a second written warning or proceed with the actions necessary to address the situation in accordance with municipal by-laws or other statutes. Either:
  - 4.2.1. If a second written warning or formal order is to be issued, the Investigator will proceed and give a final time period in which to comply; or
  - 4.2.2. If legal action is decided, the Investigator will provide the Clerk and/or the individual responsible for administering the by-law with a recommendation to proceed with legal action when it appears obvious compliance is not forthcoming.
- 4.3. At any stage of the enforcement process, if, in the opinion of the Investigator, CAO, Clerk and/or the individual responsible for administering the by-law, the matter is of significant consequence, the matter may be brought before Council for input and direction. This action is not mandatory.
- 4.4. Any action that would result in municipal staff or contractors entering onto private lands and expending public monies should be reported to Council prior to such action being undertaken. There are two exceptions:
  - 4.4.1. Where circumstances do not afford time to have a matter presented to Council (i.e. need to demolish a burned-out abandoned building immediately for the protection of the public), in which case the CBO or enforcement officer may proceed with the approval of the Clerk/CAO; or
  - 4.4.2. Where the money to be expended is anticipated to be minor (less than \$1000).
    - 4.4.2.1. It is understood in such circumstances, where the municipality must take action and charge fees back to the

ratepayer, that monies expended by the Municipality and not collectable, would be added to the tax roll and collected in like manner or as taxes according to legislative requirements.

## **5. Frivolous, Vexatious or Spite Complaints**

5.1. Frivolous, Vexatious or Spite Complaints will not be accepted unless deemed by the Investigator or Clerk to be an immediate threat to health and safety.

5.2. That, in situations whereby 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 Investigator and Township staff are given the discretion to decide on an appropriate level of response to such complaints.

5.3. The level of response by staff 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.

5.4. Any decision will be appropriately and completely documented in the Complaints Log.

## **6. Level Of Involvement**

6.1. In making their decision on the appropriate level of response to complaints, staff will have regard to the following factors below.

6.2. That, in situations where the Investigator or Township staff are involved in a dispute between 2 or more people, where it has become obvious that staff's involvement will not be able to achieve a reasonable resolution to their dispute, staff are given the discretion to decide on an appropriate level of further involvement.

6.3. The level of involvement by staff may include a decision to suspend further involvement or take no further action in the dispute.

6.4. Factors for consideration:

6.4.1. safety factors;

6.4.2. available resources;

6.4.3. potential impact on the complainant;

6.4.4. history of attempts to mediate by staff;

6.4.5. the number of unfounded complaints;

6.4.6. apparent attempts to purposely aggravate the situation;

6.4.7.

6.4.8. potential impact of not responding;

6.4.9. is the violation obvious to the neighbourhood;

- 6.4.10. impact on the immediate neighbourhood;
- 6.4.11. complaints that appear to result from a form of vendetta or retribution, or are otherwise deemed to be frivolous and vexatious;
- 6.4.12. offer for formal mediation;
- 6.4.13. the number of complaints or concerns registered that do not fall within the jurisdiction of the United Townships of Head, Clara & Maria's by-laws.
- 6.4.14. coordinating involvement with other relevant agencies.

6.5. Any decision made under this policy including a decision not to respond to complaints or enforce by-laws, and also including a decision made by the CAO or Clerk may, at any time, be revisited. Additionally, the CAO or Clerk may at his/her discretion require staff to respond to a complaint or enforce a by-law in spite of any previous decision to the contrary.

## **7. Reporting**

- 7.1. By-law Services Staff will provide regular monthly reports to Council regarding by-law enforcement activities.
- 7.2. The Investigator will ensure that the Formal Complaint Report (Schedule "A") is completed in its entirety, when necessary.
- 7.3. The Investigator will ensure that the Formal Complaint Report – For Staff Use Only (Schedule "B") is completed in its entirety.

## **RESPONSIBILITIES**

Members of Council and staff are responsible for adhering to the parameters of this policy.

## **MONITORING/CONTRAVENTIONS**

The Clerk shall be responsible for monitoring the application of this policy and for receiving complaints and/or concerns related to this policy.

## **LEGISLATIVE AND ADMINISTRATIVE AUTHORITIES**

Under the *Municipal Act*, Powers exercised by by-law - A municipal power, including a municipality's capacity, rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise. 2001, c. 25, s. 5 (3);





**THE CORPORATION OF THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA  
BY-LAW ENFORCEMENT FORMAL COMPLAINT FORM  
FOR STAFF USE ONLY**



Incident #: \_\_\_\_\_

Date: \_\_\_\_\_ Address: \_\_\_\_\_

Valid Complaint? Yes  No  Further Action Required? Yes  No

What is the offence?  
\_\_\_\_\_  
\_\_\_\_\_

Who committed the offence?  
\_\_\_\_\_  
\_\_\_\_\_

When did the offence occur?  
\_\_\_\_\_  
\_\_\_\_\_

Where was the offence committed?  
\_\_\_\_\_  
\_\_\_\_\_

Why is this an offence?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Agency Assistance? Yes  No

Name of Agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Field Notes:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ticket Fee Received? Yes  No  Date Received: \_\_\_\_\_

Complaint Finalized Date: \_\_\_\_\_

Investigated by: \_\_\_\_\_