

THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

BY-LAW NO. 23-90

Being a by-law to adopt a Municipal Law Enforcement Policy

WHEREAS the Council of the Corporation of the Township of Malahide recognizes the need for a clear and concise set of policies concerning Municipal Law Enforcement;

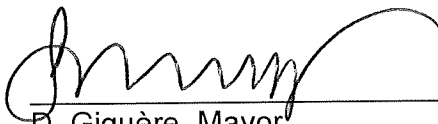
WHEREAS the Council of the Corporation of the Township of Malahide deems it advisable that the Policy on Municipal Law Enforcement be confirmed and adopted by By-law;

NOW THEREFORE the Municipal Council of the Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. THAT effective upon passage the Policy on Municipal Law Enforcement attached hereto as Schedule "A" and forming part of this by-law is hereby adopted as the policies and procedures for the management of Municipal Law Enforcement for the Township of Malahide.
2. THAT this Municipal Law Enforcement Policy By-law may be amended from time as directed and deemed necessary by the Council of the Township of Malahide.
3. THAT any by-law(s) contravening this by-law shall be repealed.
4. AND THAT this by-law shall come into full force and effect upon final passing.

READ a FIRST and SECOND time this 21st day of December, 2023.

READ a THIRD time and **FINALLY PASSED** this 21st day of December, 2023.


D. Giguère, Mayor


A. Adams, Clerk

SCHEDULE "A"



MUNICIPAL LAW ENFORCEMENT POLICY

1. PURPOSE

- (1) This policy guides how the Township of Malahide handles complaints about municipal by-law violations. It ensures that the process is standardized, thorough, prompt, and courteous. The goal is to achieve compliance through education, mediation, and enforcement when needed.

2. DEFINITIONS

- (1) **Administrator:** Chief Administrative Officer of the Township of Malahide or their designate.
- (2) **Formal Complaint:** A written complaint with the complainant's full name, telephone number, address and nature of the complaint in writing.
- (3) **Municipal Law Enforcement Officer:** A person appointed by Township of Malahide by-law for Municipal Law Enforcement including, but not limited to, a Building Inspector, Municipal By-law Enforcement Officer, Police Officer and a person authorized by Council or an assigned individual with the responsibility for enforcing and administering this Policy.
- (4) **Notice of Contravention:** A notice specifying a by-law violation, addressed to a person responsible for the contravention, with a date by which compliance is to be achieved.
- (5) **Frivolous and Vexatious Complaint:** A complaint submitted with ill will or malicious intent, including retaliatory complaints and civil disputes. A Frivolous and Vexatious Complaint may also be identified as a complaint that is part of a pattern of conduct by the complainant that amounts to an abuse of the complaints process. Such a pattern occurs when on three (3) or more occasions a complaint comes forward on a matter a Municipal Law Enforcement Officer has already dealt with. The determination of a complaint being a Frivolous and Vexatious Complaint shall always be at the sole, absolute and unfettered discretion of a Municipal Law Enforcement Officer.
- (6) **Township** shall mean the Corporation of the Township of Malahide.

3. BY-LAW INVESTIGATION AND ENFORCEMENT PROCEDURE

- (1) Except for parking infractions, the Township of Malahide shall generally operate on a complaint-driven process regarding Municipal Law Enforcement unless direction is otherwise given by the CAO or CBO.
 - (a) The Township shall only respond to Formal Complaints received from a complainant who provides their full name, telephone number, address and nature of the complaint in writing. Anonymous and/or incomplete complaints shall not be investigated.
 - (b) Frivolous or Vexatious Complaints, shall not be accepted and/or investigated by a Municipal Law Enforcement Officer.
 - (c) A Municipal Law Enforcement Officer may undertake an investigation on their initiative upon observation of a possible situation of a by-law violation where the matter is of an immediate threat to health or safety.
- (2) Staff shall record the Formal Complaints in a database maintained by the Township.
- (3) The name and any personal information provided by a complainant shall remain in the strictest confidence per the *Municipal Freedom of Information and Protection of Privacy Act* and shall not be divulged unless so ordered by a Court or other tribunal or body of competent jurisdiction.
- (4) A Municipal Law Enforcement Officer may conduct a preliminary review of the complaint to verify the information provided and research any supporting documentation which may be available in Municipal records.
- (5) A Municipal Law Enforcement Officer may call the complainant, when necessary, for further details or to confirm or clarify information provided within the Formal Complaint.
 - (a) If the complainant is uncooperative, the complaint may be abandoned due to insufficient information. It is understood that a complainant could be required to provide evidence for court purposes and could also be required to provide additional information to the Municipal Law Enforcement Officer.
- (6) A Municipal Law Enforcement Officer may attend the site to witness and record the activity to determine if a Municipal By-law contravention exists.
- (7) If a Municipal Law Enforcement Officer is unclear of a possible contravention, they may seek the advice of the Municipal Prosecutor or Municipal Solicitor if required, or the appropriate Township of Malahide staff member.

- (a) A Municipal Law Enforcement Officer may provide the information required to the appropriate party so that an informed determination can be provided and where necessary the appropriate actions initiated.
- (8) Where a violation of a Municipal By-law is determined by a Municipal Law Enforcement Officer, excluding set fine situations or documented, chronic violations or where otherwise warranted, a Municipal Law Enforcement Officer may provide an initial warning to the suspect/violator by two (2) methods: in written and verbal communication. The verbal communication will be either in person or by phone.
- (a) Notwithstanding Section 3(8) of this Policy In situations wherein set fines have been established for violations of a Municipal By-law, a Municipal Law Enforcement Officer may, upon confirmation of the existence of a violation, immediately issue an offence notice/ticket.
 - (b) Notwithstanding Section 3(8) or 3(9) of this Policy, where provided for by Municipal by-law or otherwise, a Municipal Law Enforcement Officer may issue an emergency order to remedy a violation in lieu of an initial warning when such violation poses an immediate threat to health or safety.
 - (c) After the time limit has expired in the warning pursuant to Section 3(8) of this Policy or Order pursuant to Section 3(10) of this Policy a Municipal Law Enforcement Officer may return to the site to determine if compliance has been achieved.
- (9) When compliance with the warning and/or order is confirmed, a Municipal Law Enforcement Officer shall enter the complaint finalized date in the Complaints Database and close the file.
- (10) If the warning and/or order has not been complied with within the specified time period, a Municipal Law Enforcement Officer shall review the non-compliance with the Administrator.
- (a) Following discussions with the Administrator pursuant to Section 3(13) of this Policy, a Municipal Law Enforcement Officer shall determine whether to attempt a Notice of Contravention or proceed with the actions necessary to address the situation in accordance with Municipal By-laws or otherwise.
 - (b) If a Notice of Contravention or formal order is to be issued, a Municipal Law Enforcement Officer shall determine a final time period to achieve compliance. If, in the opinion of the Municipal Law Enforcement Officer, sufficient work has been done but compliance has not been fully achieved by the compliance date, the Municipal Law Enforcement Officer may extend a compliance date at their discretion.

- (c) If legal action is required, a Municipal Law Enforcement Officer shall recommend to the Administrator to proceed with legal action when it appears obvious compliance is not forthcoming.
 - (d) At any stage of the enforcement process, if, in the opinion of the Administrator the matter is of significant consequence, the matter may be brought before Council for direction. Such discussions should occur in camera and would not be considered a breach of this policy.
- (11) A failure to comply with any provision of this policy shall not vitiate any proceeding or any step, document or order in a proceeding otherwise in accordance with any Municipal By-law, Provincial or Federal Legislation.
- (12) Any decision made under this policy including a decision not to respond to a complaint or enforce by-laws, and also including a decision made by the Administrator, may at any time be revisited. A decision not to respond shall be made in good faith.

4. LEVEL OF INVOLVEMENT

- (1) When in receipt of any and all Municipal By-law complaints a Municipal Law Enforcement Officer is delegated the sole absolute and unfettered discretion to determine an appropriate level of response to said complaints. The level of response by a Municipal Law Enforcement Officer 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. In deciding on the appropriate level of response to said complaints, a Municipal Law Enforcement Officer shall have regard to the following criteria:
- (a) safety factors;
 - (b) history of attempts for compliance made by a Municipal Law Enforcement Officer;
 - (c) available resources, including financial resources;
 - (d) potential impact of not responding;
 - (e) offer for formal mediation;
 - (f) coordinating involvement with other relevant agencies;
 - (g) likelihood of achieving compliance;
 - (h) Municipal jurisdiction and authority;
 - (i) other enforcement avenues including civil processes.
- (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 unless so ordered by a Court or other tribunal or body of competent jurisdiction.
- (3) Persons who are the subject of a complaint are also protected under the *Municipal Freedom of Information and Protection of Privacy Act* and every subject of a

complaint will be kept confidential and not be intentionally divulged to non-essential municipal staff, the public or media unless required for investigation purposes or so ordered by a Court or other tribunal or body of competent jurisdiction.

- (4) Pursuant to Sections 4(2) and 4(3) of this Policy, once a complaint has been filed, other than acknowledgment of receipt of the complaint, no follow-up, involvement, information or correspondence regarding the complaint shall be provided to the complainant as the process is protected by the *Municipal Freedom of Information and Protection of Privacy Act*.
- (5) No delegations to Council shall be permitted by any person concerning, or with the subject matter, of a Municipal By-law complaint.

5. REPORTING

- (1) A Municipal Law Enforcement Officer shall provide a quarterly report to Council regarding general Municipal Law Enforcement statistics.

6. COUNCIL INVOLVEMENT

- (1) Wherever Council involvement is deemed necessary to provide direction related to Municipal Law Enforcement matters, such discussion/direction shall only occur during In-Camera sessions at Council, and the Municipal Law Enforcement Officer shall not otherwise discuss or take direction from Councillors related to Municipal Law Enforcement matters. Nothing in this policy shall preclude a Municipal Law Enforcement Officer from answering questions related to Municipal Law Enforcement Process or providing information that is not case specific to members of Council.

7. 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 Township of Malahide.