

**THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR**

**BY-LAW #5-2018**

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

**WHEREAS** Section 9 of the *Municipal Act*, S.O. 2006, c. 32 Sched. A, s. 8, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** Section 10(2)(6) of the *Municipal Act*, S.O. 2006, c. 32, Sched. A, s. 8, as amended, permits a municipality to pass by-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** Section 10(2)(8) of the *Municipal Act*, S.O. 2006, c. 32, Sched. A, s. 8, as amended, permits a municipality to pass by-laws respecting the protection of persons and property, including consumer protection;

**AND WHEREAS** the Council of the Township of Armour is committed to providing a high level of By-law Enforcement;

**NOW THEREFORE** the Council of The Municipal Corporation of the Township of Armour hereby enacts as follows:

1. That the Municipal Law Enforcement Policy attached as Schedule "A" is adopted;
2. This By-law shall take effect upon its passing.

Read in its entirety, approved, signed and the seal of the Corporation affixed thereto and finally passed in open Council this 9<sup>th</sup> day of January, 2018.

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Robert MacPhail, Reeve

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John Theriault, Clerk



# **MUNICIPAL LAW ENFORCEMENT POLICY**

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### **Section 1: Purpose**

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- 1.1 To provide a formal policy and procedure governing the handling of municipal by-law Complaints by the Municipality and to ensure standardized, thorough, prompt and courteous receipt, processing, investigation and resolution thereof. This policy is intended to apply to both municipal by-laws and provincial statutes which the Municipality is responsible for enforcing.
- 1.2 The Municipality is committed to the delivery of municipal law enforcement services in a timely and effective manner. The goal of these services is to achieve compliance with municipal by-laws through education and enforcement.
- 1.3 The Municipality shall generally operate on a reactive Complaint based process in regards to municipal law enforcement with the exception of a violation that is an immediate threat to health or safety.

### **Section 2: Definitions**

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- 2.1 **Administrator** means the Clerk-Administrator of The Municipal Corporation of the Township of Armour.
- 2.2 **Complaint** means a Complaint received by the Municipality, wherein the complainant provides their full name, address, phone number and nature of Complaint that can be verified by the Municipal Law Enforcement Officer, in writing using the required form submitted to the Municipality.
- 2.3 **Municipal Law Enforcement Officer** means a person appointed by the Municipality by-law for the purposes of municipal law enforcement including, but not limited to a Building Inspector, By-law Enforcement Officer, Police Officer and a person authorized by Council or assigned individual with the responsibility for enforcing and administering this policy.
- 2.4 **Municipality** means The Municipal Corporation of the Township of Armour.
- 2.5 **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 Municipal Law Enforcement Officer has already dealt with. After discussing it with the Administrator, the determination of a Complaint being a Spite Complaint shall be at the discretion of a Municipal Law Enforcement Officer.

### **Section 3: By-law Investigation and Enforcement Procedure**

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- 3.1 The Municipality shall only respond to 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.
  - a) A Municipal Law Enforcement Officer 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.
  - b) Municipal staff may assist the public by providing by-law information, but will not provide opinions regarding the appropriateness of any proposed activity.

- 3.2** 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.
- 3.3** 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.
- 3.4** 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.
- 3.5** A Municipal Law Enforcement Officer may attend the site to investigate the activity to determine if a municipal by-law contravention exists.
- 3.6** 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 municipal 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.
- 3.7** 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 person by any of the following four (4) methods:
  - a) In person;
  - b) By telephone;
  - c) Email; or
  - d) In writing.
- 3.8** Notwithstanding section 3.7 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.
- 3.9** Notwithstanding section 3.7 or 3.8 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 a violation poses an immediate threat to health or safety.
- 3.10** When compliance with the warning and/or order is confirmed, a Municipal Law Enforcement Officer shall enter the Complaint finalized date in the By-law matters database and close the file.
- 3.11** If the warning and/or order has not been complied with within the specified time, a municipal law enforcement office may review the non-compliance with the Administrator.
- 3.12** Following discussions with the Administrator pursuant to section 3.11 of this policy, a Municipal Law Enforcement Officer shall determine whether to attempt a second written warning or proceed with the actions necessary to address the situation in accordance with municipal by-laws or otherwise.
  - a) If a second written warning or formal order is issued, a Municipal Law Enforcement Officer shall determine a final time period to achieve compliance.

- b) 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.
- c) 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.

**3.13** Spite Complaints shall not be investigated by a Municipal Law Enforcement Officer.

**3.14** Failure to comply with any 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, provincial or federal legislation.

**3.15** Any decision made under this policy, including a decision not to respond to a Complaint or enforce a by-law or a decision by the Administrator, may at any time be revisited.

**3.16** In addition to municipal law enforcement options by the Municipality, persons also have independent legal rights, which may be explored and pursued by said persons.

**3.17** The Ontario Provincial Police are responsible for emergency situations and should be contacted to deal with issues, including but not limited to loitering, trespassing, noise related neighbor or domestic disputes, possible drug activity, vandalism or other possible criminal activity.

#### **Section 4: Level of Involvement**

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**4.1** Municipal Law Enforcement Officers have, in the absence of Council direction to the contrary, discretion to determine the appropriate response to a Complaint. This may include decisions to act on some, all or none of the Complaint and assign priority between Complaints. This discretion is to be exercised on the basis of 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.

**4.2** Complainants and persons who are subject of a Complaint 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, non-essential municipal staff, the public or media unless so ordered by a court or other tribunal body of competent jurisdiction.

**4.3** Pursuant to section 4.2 of this policy; once a Complaint has been filed, other than acknowledgement 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*.

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**Section 5: Application**

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- 5.1** This policy shall come into full force and effect on the day it is adopted by the Council of The Municipal Corporation of the Township of Armour.