



Council report

Meeting date:	May 18, 2021
Title:	Municipal Law Enforcement Procedures
Prepared by:	Karl Schipprack, Director of Development/Chief Building Official
Reviewed by:	Laura Johnston, CAO

Recommendation

That CBO report – Municipal Law Enforcement Procedures be received for information.

Executive summary

Municipal Law Enforcement ensures the proper and consistent enforcement and compliance with the municipality's regulatory by-laws. This is done using a consistent process that treats all property owners the same. There are specific timelines associated with enforcement activities which are also outlined in this report.

Background and discussion

The goal of municipal law enforcement is to achieve compliance through information, education and voluntary compliance. If this is not achievable then the Municipal Law Enforcement Officer (MLEO) takes appropriate action such as the laying of charges. Action may also include direct enforcement where the municipality may remove or resolve a noncompliance matter at the property owner's expense.

COMPLAINTS:

All by-law complaints from the public shall be made in writing by the complainant on the prescribed form. 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 municipal website, by mail or can be picked up and filled in at the office, once it is safe to do so.

Complaints are to be acted upon as quickly and responsibly as possible. Complaints are required in writing for legal purposes to provide evidence at trial. The requiring of a signature protects the municipality from being accused of discriminating against a citizen. Personal information including the complainant's name shall be kept confidential, however, if the matter



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goes to court, the complainant could be called to testify and give evidence to substantiate the municipality's position.

If an officer, during the course of their duties, observes a bylaw contravention that poses a health and safety risk either to themselves or to the public, the officer must act upon it. In this case, the officer shall prepare a complaint form for filing purposes and proceed as a regular complaint.

Below is a flow chart that is to be followed when a complaint is received.

INVESTIGATION:

Once a signed complaint has been received on the appropriate form, it is entered into the computer daily occurrence report, and given a file number for reference. A site investigation is completed. The officer must be sure to identify themselves and the purpose of their visit. Property owners and tenants have rights, they shall be told of their rights and their right to refuse entry. If they refuse and the officer has evidence of a contravention, the officer can petition the court for a warrant to enter the property. The officer would 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, and take pictures when possible.

Once an officer has completed their site investigation, their findings are recorded on an occurrence report and update the computer occurrence report. The officer must determine whether or not a contravention is taking place. If an officer has found that a by-law is being contravened a Notice of Contravention is sent to the registered owner of the property by registered mail.

NOTICE OF CONTRAVENTION (NOC):

The notice of contravention (NOC) 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. 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.

Final Notice of Contravention (FNOC)

The municipality 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 period given in the FNOC,



the officer may initiate court proceedings under Part I or Part III of the Provincial Offences Act or proceed directly to Superior court.

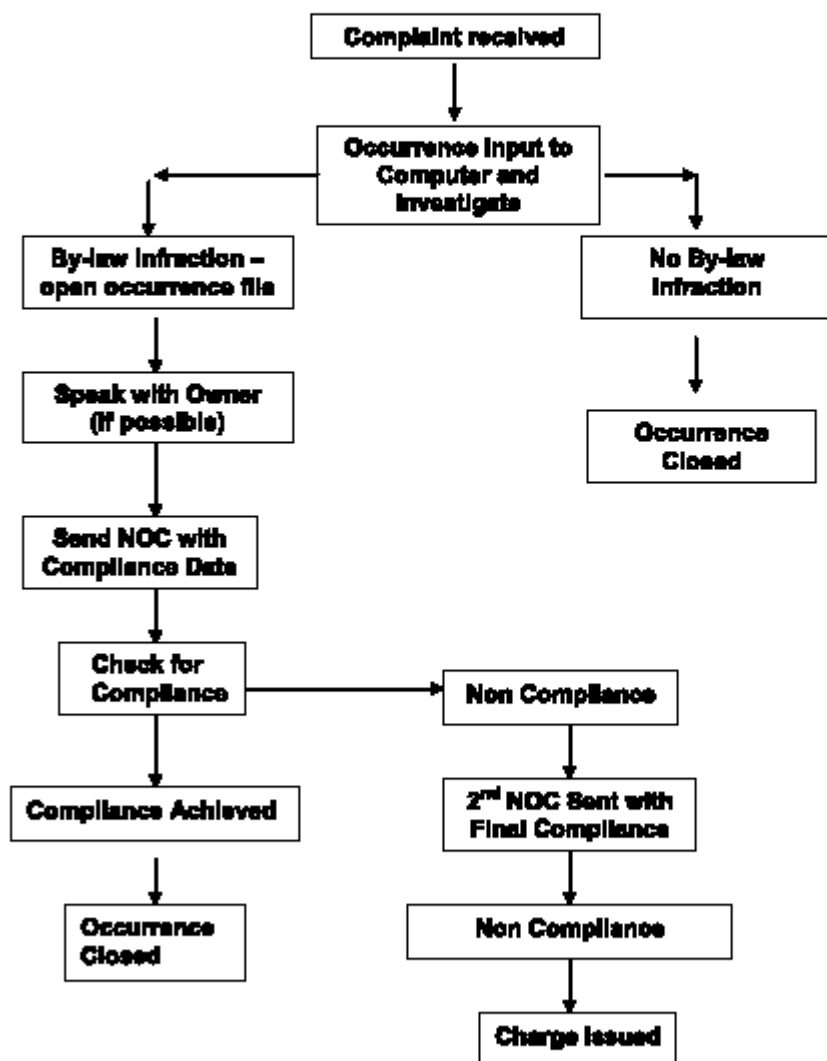
COURT PROCESS

Part I 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 III information is used for bylaws that do not have set fine approval (e.g. Zoning By-law). The Provincial Offences court (POA) is a fine-based court process. It is designed to be efficient and the defendant can attend without counsel but can retain counsel if they choose. This proceeding can take three to six months to complete. The court would hear the evidence at trial from both parties and determine guilt or innocence and if guilty would determine a fine, if any. It is important to note, however, that this does not bring the property into compliance automatically. Ideally, the owner would comply with the order, a site inspection would be done and the file closed. If the owner still refuses to comply, the municipality can give notice to the owners that if they do not comply by a specified date the municipality will complete the work and the costs will be billed back to the property owner. If the owner does not comply, the municipality will hire outside contractors to bring the property into compliance. The work will be completed and all fees billed to the owner. If the owner does not pay then these fees will be added to the tax roll. The owner has a right to appeal to the Superior Court at any time during the process including after all the work has been completed and if they are successful in the appeal all costs would have to be removed from the tax roll and paid by the municipality and they could sue the municipality for damages.

Superior Court – Used for more serious offences or offences where the officer believes even with a POA court ruling the property owner is not likely to comply. This court process is longer, being typically six to nine months and more time is required by our legal counsel, which results in our legal costs being higher. If the defendant is found guilty, legal fees can be recovered and fines are usually higher. If the defendant is found guilty of the offence, the decision will include an order by the court to bring the property into compliance.

REACTIVE COMPLAINT FLOW CHART



Legal and legislated requirements

Throughout the investigation and enforcement process consultation is done with the officer's supervisor and legal counsel if required.

Financial and resource implications

None

Staffing implications



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None

Consultation

Julia Fisher, West Grey Legal Counsel

Jennifer Watson, West Grey MLEO

Alignment to strategic vision plan

Not applicable.

Attachments

None

Next steps

Receive for information.

Respectfully submitted:

Karl Schipprack, Director of Development/Chief Building Official