

The Corporation of the Village of Point Edward  
By-Law 26 of 2023

Being a By-Law to establish a transparent, consistent, fair, unbiased, and effective process for the enforcement and prosecution of alleged contraventions of municipal standards.

**WHEREAS** under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “*Municipal Act*”), municipalities can specify when a contravention of a by-law is an offence, establish a system of fines for offences under by-laws, establish systems of administrative penalties and exercise other enforcement powers;

**AND WHEREAS** the Village of Point Edward (the “Village”) investigates, administers, enforces, and prosecutes alleged contraventions of its by-law and all other applicable provincial legislation falling within its mandate and authority;

**AND WHEREAS** the goal of the Village’s enforcement activities is compliance with standards established by the Village’s by-laws and applicable provincial legislation employing the most efficient and effective means;

**AND WHEREAS Prosecutors** have the responsibility to ensure that every prosecution is carried out in a manner that is fair, dispassionate and moderate, consistent with the public interest, and that shows no signs of partisanship. As a fundamental principle, **prosecutors** must carry out their responsibilities independent of any partisan political influences.

**AND WHEREAS** Council considers it appropriate to ensure the proper administration of justice, to respect the roles of Council members, complainants, staff investigators and **prosecutors** in the administration, enforcement, and prosecution of any alleged contraventions of municipal by-laws and other applicable provincial legislation, and to ensure that such investigations and prosecutions occur in a fair and unbiased way, free from any improper influence or interference.

**NOW THEREFORE** the Council of the Village of Point Edward enacts as follows:

**Interpretation**

1. In this By-law “By-law” means this by-law and any schedule to this by-law as they may from time to time be amended;
2. In this By-law the following definitions shall apply:

“**Council**” means Council for the **Village** of Point Edward;

“**Enforcement Officer**” means

- (a) in relation to enforcement under the *Fire Protection and Prevention Act, 1997*, SO 1997, c 4, as amended, the **Village’s** Fire Chief or their designate;
- (b) in relation to enforcement under the *Building Code Act, 1992*, SO 1992, c 23, as amended, the **Village’s** Chief Building Official or their designate;
- (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police; and
- (d) in relation to all other enforcement by or on behalf of the **Village** of Point Edward, the **Village** of Point Edward’s Municipal By-Law **Enforcement Officers** as appointed by the **Village** of Point Edward;

“**frivolous and vexatious**” means that the complaint is initiated with the intent to embarrass or annoy the recipient or is part of a **Pattern of Conduct** by the complainant that amounts to an abuse of the complaints process or is a nuisance false alarm call.

“**Municipal Standard**” means a standard established by by-law of **Council** for the **Village** of Point Edward or by provincial legislation for which the by-law or legislation, as



applicable, provides that contravention of the standard is an offence or otherwise provides for enforcement of the standard;

“**Pattern of Conduct**” occurs when, on two or more occasions, a complainant engages in one or more of specific behaviours as defined in the policy, attached as Appendix A.

“**Prosecutor**” means a person from time to time performing the function of prosecuting an alleged contravention of a **Municipal Standard**, including before a court or tribunal.

“**Village**” or “**Municipality**” means The Corporation of the **Village** of Point Edward;

#### **Roles**

3. Members of the public and individual members of **Council** may:
  - a. make complaints to the **Village** regarding alleged contraventions of any **Municipal Standard**; and
  - b. be summonsed to testify before a court or tribunal in the prosecution of an alleged contravention of a **Municipal Standard**.
4. **Council** may:
  - a. from time to time establish, amend, and repeal a **Municipal Standard** that is governed by by-law of **Council**;
  - b. establish the budget for and policies related to the enforcement of **Municipal Standards**; and
  - c. at meetings of **Council** or of one its Standing Committees, ask questions of, and receive information from staff of the **Village** of Point Edward on general questions relating to the enforcement of any **Municipal Standard**.
5. Any staff member of the **Village** of Point Edward may subject to the **Enforcement Officer’s** directions:
  - a. receive complaints regarding alleged contraventions of **Municipal Standards**;
  - b. screen complaints to determine if the subject matter of the allegation(s) falls within their jurisdiction;
  - c. undertake investigations into alleged contraventions of **Municipal Standards** either in response to complaints or proactively;
  - d. conclude investigations by making any one of the following determinations:
    - i. there is insufficient evidence to proceed with enforcement in response to the complaint;
    - ii. the **Municipal Standard** the subject of the complaint has been brought into compliance;
    - iii. the complaint is trivial, frivolous, vexatious, or made in bad faith;
    - iv. the matter the subject of the complaint should be enforced.
6. For any such matters for which a determination has been made pursuant to section 5(d)(iv) above, cause to be undertaken enforcement by such means as may result in compliance with the **Municipal Standard** as efficiently and effectively as possible including, as applicable, by any of the following means deemed appropriate:
  - a. request;
  - b. administrative order;
  - c. municipal remedial work;
  - d. administrative penalty;
  - e. commencing a proceeding under Parts I or II of the *Provincial Offences Act*;



- f. referral to Legal Services for prosecution under Part III of the *Provincial Offences Act*; and
  - g. referral to Legal Services for applicable relief by way of action or application in the Superior Court of Justice.
- 7. **Prosecutors** may, subject to the direction of the Chief Administrative Officer for the **Village** of Point Edward:
  - a. screen referrals for prosecution to determine whether there is a reasonable prospect of conviction or whether the prosecution of the alleged contravention of the **Municipal Standard** is in the public interest;
  - b. initiate prosecutions of alleged contraventions of **Municipal Standards**;
  - c. attend and conduct motions, trials, appeals and hearings before courts or tribunals related to prosecutions of alleged contraventions of **Municipal Standards**;
  - d. enter into resolution discussions, negotiations, and agreements; and
  - e. withdraw prosecutions where there is no longer a reasonable prospect of conviction, where it is in the public interest to do so or where a withdrawal furthers the administration of justice.

#### **Investigations**

- 8. All investigations and enforcement respecting alleged contraventions of **Municipal Standards** shall be undertaken on a case-by-case basis, pursuant to any directions of the **Enforcement Officer**, with regard to the evidence, with a view to compliance with **Municipal Standards** by the most efficient and effective means and independently of political or any other external influences.
- 9. **Enforcement Officers** will act on complaints as quickly as reasonably possible and undertake their investigations diligently, fairly, and in a manner that is consistent with the public interest and any direction of the **Enforcement Officer**.
- 10. **Enforcement Officers** shall at no time disclose any confidential information including personal information gained in the execution of their duties except as required for prosecution purposes or otherwise in accordance with applicable law.
- 11. **Enforcement Officers** shall not accept a fee, gift, or personal benefit, except compensation authorized by by-law, which is connected directly or indirectly with the performance of their duties.
- 12. Each **Enforcement Officer** shall disclose to the Chief Administrative Officer for the **Village** of Point Edward any attempt at improper influence or interference, financial, political, or otherwise, respecting the **Enforcement Officer's** performance of his or her duties.
- 13. Each **Enforcement Officer** who is contacted by a member of **Council** with respect to an outstanding complaint or investigation matter, other than a complaint made by or against the **Council** member or in which the **Council** member is a witness, shall immediately disclose such contact to the Chief Administrative Officer for the **Village** of Point Edward.
- 14. Each **Enforcement Officer** shall disclose to legal counsel for the **Village** the particulars of each report provided to the Chief Administrative Officer for the **Village** of Point Edward pursuant to sections 12 and 13. Legal counsel for the **Village** of Point Edward may report the particulars to **Council**.
- 15. Each **Enforcement Officer** shall disclose any actual or reasonably perceived conflict of interest as soon as possible to the Chief Administrative Officer for the **Village** of Point Edward.
- 16. No action shall be taken against an **Enforcement Officer**, Chief Administrative Officer for the **Village** of Point Edward, or legal counsel for the **Village**, as the case may be, who discloses or reports in good faith pursuant to sections 12, 13, 14 or 15.

#### **Prosecutions**



## Schedule "A"

### What Constitutes a Pattern of Conduct?

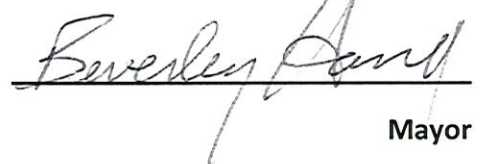
A "**pattern of conduct**" occurs when, on two or more occasions with respect to a particular matter / issue, a complainant engages in one or more of the following:

- Brings complaints concerning an issue which staff have already investigated and determined to be groundless; or brings complaints concerning an issue which is substantially similar to an issue that staff have already investigated and determined to be groundless (e.g., with respect to the same neighbour or same property), or
- Engages in unreasonable conduct which is abusive of the complaints process, including, but not limited to:
  - Harassing, verbally abusing or otherwise seeking to intimidate staff dealing with their complaint, in violation of any of the **Village** of Point Edward's policies and procedures relating to a respectful workplace and workplace violence;
  - Making excessive or multiple lines of inquiry regarding the same issue (e.g., pursuing a complaint with staff in multiple departments throughout the **Village** and/or an elected official simultaneously) while their complaint is in the process of being investigated;
  - Repeatedly challenging the findings of a complaint investigation, complaining about the outcome and/or denying that an adequate response has been given;
  - Refusing to accept that an issue falls outside the scope of the **Village** of Point Edward's jurisdiction;
  - Making unreasonable demands on staff by, for example, insisting on responses to complaints and inquiries within an unreasonable timeframe;
  - Making statements or providing representations that the complainant knows or ought to know are incorrect, or persuading others to do so;
  - Demanding special treatment from staff by, for example, not following the normal chain of command and immediately demanding to speak to a manager or supervisor or Chief Administrative Officer;
  - Using new complaints to resurrect issues that were investigated and completed in previous complaints;
  - Changing the basis of the complaint as the investigation progresses and/or denying statements they made at an earlier stage;
  - Refusing to co-operate with the investigation process while still wanting their complaint to be resolved;
  - Failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to help them clarify their concerns

17. **Prosecutors** shall ensure that each prosecution is carried out in a manner that is fair, dispassionate, and moderate, consistent with the public interest and independent of political or other external influences.
18. **Prosecutors** shall not disclose information that is gained in the execution of their office and is not available to the public, except in accordance with law. **Prosecutors** shall not use such information to further or seek to further their financial, political, or personal interest.
19. **Prosecutors** shall not accept a fee, gift, or personal benefit, except compensation authorized by law, which is connected directly or indirectly with the performance of their duties.
20. **Prosecutors** shall not act or be directly or indirectly involved as counsel or agent for any other person in respect of any offence charged against the other person under a **Municipal Standard**.
21. **Prosecutors** shall disclose to the Chief Administrative Officer for the **Village** of Point Edward any attempt at improper influence or interference, financial, political, or otherwise, respecting the **Prosecutor's** performance of their duties.
22. **Prosecutors** who are contacted by a member of **Council** with respect to a prosecution matter shall immediately disclose such contact to Chief Administrative Officer for the **Village** of Point Edward.
23. **Prosecutors** shall disclose to the Chief Administrative Officer for the **Village** of Point Edward any actual or reasonably perceived conflict of interest as soon as possible.
24. The Chief Administrative Officer for the **Village** of Point Edward may in their own discretion report to **Council** the particulars of any disclosure made pursuant to sections 21, 22, or 23.
25. No action shall be taken against a **Prosecutor** Chief Administrative Officer for the **Village** of Point Edward, as the case may be, who discloses or reports in good faith pursuant to sections 21, 22, 23 or 24.

**General**

26. The Chief Administrative Officer for the **Village** of Point Edward shall report periodically through the applicable Standing Committee of **Council** respecting the efficiency and effectiveness of enforcement activities throughout the **Village** of Point Edward.
27. No person shall make a **frivolous or vexatious** complaint in the **Village of Point Edward**,
28. If a complaint is determined to **frivolous or vexatious** the complainant may be subject to fees according to the **Village Fees and Services By-Law**. (By-Law 17 of 2023 or its successor)
29. Nothing in this By-law limits the **Village** of Point Edward's right to enforce its by-laws by any and all legal means.
30. The short title of this By-law is the "Enforcement By-law."
31. This By-Law is READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 27th day of June, 2023.

  
Mayor

  
Clerk