

**Town of Greater Napanee
Policy No. PO-2009-01
By-law Enforcement Policy**



Resolution/By-law: #39/09

Effective Date: February 10, 2009

Revised: February 13, 2018

1. POLICY STATEMENT/PURPOSE

The purpose of the policy is to set a consistent approach to by-law enforcement that can be supported by staff and communicated to members of the public.

2. APPLICATION

This policy applies to all by-laws of the Town of Greater Napanee and any requests for enforcement received by the Town.

3. DEFINITION

For the purpose of this policy, the definition of Property Standards are the standards of physical conditions and occupancy of a building or structure or part of a building or structure, and includes the lands and premises belonging thereto and all mobile homes, mobile buildings, mobile structures, out buildings, fences and erections on or before now erected and includes vacant property.

4. GENERAL

(i) Resolution of violations through cooperation as opposed to formal court or other action should always be the preferred solution. All violations should be approached with this intent, and the cooperation of the offender should be sought first in every instance.

(ii) The order in which different violations or issues are addressed should be in consideration of:

- The date the request for investigation and enforcement was received;
- The severity of the violation; and
- The risk to public health and safety.

The health and safety issues should always be considered promptly. Less serious issues should be deferred in favour of the health and safety issues, until time and resources permit.

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- (iii) Any action that would result in Town staff or Town contractors entering onto private lands and expending public monies should be reported to Council prior to such action being undertaken.

There are two exceptions:

- (a) Where circumstances do not afford time to have a matter presented to Council, in which case staff may proceed with the approval of a General Manager, the Clerk or CAO; or
- (b) Where the money to be expended is anticipated to be minor (less than \$2,000).

It is understood that in such circumstances, monies expended by the Town would be added to the tax roll and collected in like manner as taxes according to legislative requirements.

- (iv) Requests for investigation and enforcement from the public or members of Council will be processed only if provided to staff in written form, either in print or email, including the online "Report an Issue" form on the Town's website. The names of requestors will be kept confidential, unless authorized for release by the requestor or unless required for prosecution.
- (v) If the request for investigation and enforcement cannot be resolved through negotiations within a reasonable amount of time, then set fines will be issued, if possible, prior to proceeding with court action. Any formal action proposed by staff to address an infraction which could have legal implications for the Town should first be reviewed with the Town's solicitor, as required.
- (vi) Requestors will be notified within 5 to 10 business days by the Town, in the form of an email, fax or letter (depending upon the requestor's preferred contact method) that the requestor's complaint has been received and will be investigated. The Town will contact the requestor within 30 calendar days with a formal answer/response to the complaint.

5. CLASSES OF INFRACTIONS

(i) **Class 1 Infractions:**

Class 1 Infractions have public health, safety or property damage implications, where a risk to humans, human use or activity exists.

1. Action on Class 1 infractions may be initiated pursuant to a request for investigation and enforcement or through staff becoming aware of an issue by any means.

2. Staff should address Class 1 infractions forthwith and assertively upon becoming aware of such an infraction.
3. Formal action by staff to resolve the matter and protect the safety of the public (i.e. entering onto private lands to remedy the matter, laying of charges, issuing notices of violation or orders) is authorized, in keeping with the general parameters of this policy directive.
4. Some examples of Class 1 infractions would include, but not be limited to:

Examples of Class 1 Infractions	Enforcement by
<ul style="list-style-type: none"> • Issues of inadequate entering/exiting from residential units in multi-unit dwellings, including inadequate or unsafe hand railings and balustrades on stairways 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Unsafe dwellings (i.e. either structural or from a health and safety perspective) 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Blocked, locked or inadequately signed fire exits 	<ul style="list-style-type: none"> • Emergency Services (Fire Department)
<ul style="list-style-type: none"> • Lack of or non-operative smoke detectors 	<ul style="list-style-type: none"> • Emergency Services (Fire Department)
<ul style="list-style-type: none"> • Abandoned refrigerators or trunks located outside with operative latches 	<ul style="list-style-type: none"> • By-law Enforcement
<ul style="list-style-type: none"> • Failure to adequately fence an outdoor pool 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Unsafe building/structures which could collapse or from which parts of the building could become dislodged causing injury 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Signs which block visibility around points of entering/exiting to a public street or sidewalk 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Unsafe electrical or plumbing conditions which could pose a health and safety concern 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Dogs running at large on public highway 	<ul style="list-style-type: none"> • By-law Enforcement

Examples of Class 1 Infractions	Enforcement by
<ul style="list-style-type: none">• Cars parked blocking fire routes and disabled parking spaces	<ul style="list-style-type: none">• By-law Enforcement
<ul style="list-style-type: none">• Prohibited burning	<ul style="list-style-type: none">• Emergency Services (Fire Department)
<ul style="list-style-type: none">• Any other property standards issues that have public health and safety or property damage implications, where a risk to humans or human use, health or activity exists	<ul style="list-style-type: none">• Development Services (Building Department)

(ii) Class 2 Infractions:

Class 2 infractions have significant negative implications on the value or character of a neighbourhood but would not pose a significant risk to public health, safety or property damage. In general, such infractions would usually affect quality of life issues where only a minor risk to humans, human use or activity exists.

1. Action on Class 2 infractions will be based on a request for investigation and enforcement; however, staff may initiate action without a request for investigation and enforcement with the approval of or pursuant to the Clerk or By-law Enforcement Officer.
2. Staff will pursue such infractions persistently, mainly by strongly encouraging the owner to fix the matter.
3. It is often appropriate to establish an ample timetable or schedule for the owner to remedy the matter in a timely manner. Staff will work cooperatively with owners to establish such plans.
4. Staff will recognize reasonable requests for extensions to complete work with just cause.
5. Formal action (i.e. entering onto private lands to remedy the matter, laying of charges, issuing notices of violation or orders) will only be initiated by staff when it is clear the owner has no intention of fixing the problem or does not have/is unlikely to have the issue taken care of within a reasonable amount of time.

6. Some examples of Class 2 infractions would include, but not be limited to:

Examples of Class 2 Infractions	Enforcement by
<ul style="list-style-type: none"> Zoning violations 	<ul style="list-style-type: none"> Development Services (Planning Department)
<ul style="list-style-type: none"> Decrepit or shabby buildings which do not pose immediate threat to public health and safety, but which pose risk of serious deterioration if not attended to, or which are visually obtrusive 	<ul style="list-style-type: none"> Development Services (Building Department)
<ul style="list-style-type: none"> A property with extensive rubbish or clutter 	<ul style="list-style-type: none"> By-law Enforcement
<ul style="list-style-type: none"> Outside storage of inoperative vehicles 	<ul style="list-style-type: none"> By-law Enforcement
<ul style="list-style-type: none"> Abandoned or unsafe buildings which are not secure from unauthorized entry 	<ul style="list-style-type: none"> Development Services (Building Department)
<ul style="list-style-type: none"> Significantly altering natural or engineered drainage patterns 	<ul style="list-style-type: none"> Development Services (Building Department)
<ul style="list-style-type: none"> Cars parked in breach of parking by-law 	<ul style="list-style-type: none"> By-law Enforcement
<ul style="list-style-type: none"> Minor yard waste/garbage issues where potential vermin problems may develop 	<ul style="list-style-type: none"> By-law Enforcement

(iii) Class 3 Infractions:

Class 3 infractions do not have public health, safety or property damage implications that pose a risk to humans, human use or activity and tend to not have significant off-site implications. Such violations tend to be more cosmetic in nature.

1. Action on Class 3 infractions will be undertaken based only on a request for investigation and enforcement, or pursuant to a habitual problem for which requests for investigation and enforcement have been received in the past.
2. Staff will address Class 3 infractions by ensuring that owners have every opportunity to bring circumstances into conformity before more formal procedures are initiated.

3. First time violators should be treated with consideration and approached with understanding. Staff will assist to ensure the owner has the information and the time necessary to resolve the matter.
4. Formal action (i.e. entering onto private lands to remedy the violation, laying of charges, issuing notices of violation or orders) should only be considered where all other avenues to resolve the matter have been exhausted and it is apparent that failing to take formal action could jeopardize the interests of the Town and the public. Formal action may be initiated more readily for repeated violators, but only after giving the opportunity to comply.
5. Some examples of Class 3 infractions would include, but not be limited to:

Examples of Class 3 Infractions	Enforcement by
<ul style="list-style-type: none"> • Grass cutting or weed violations 	<ul style="list-style-type: none"> • By-law Enforcement
<ul style="list-style-type: none"> • Maintenance of fences, accessory buildings (i.e. sheds or garage) and structures 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Nonconformity of the Town's sign by-law where structural or sight-line issues do not exist 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Inadequate finishing or leveling of a site where significant off-site drainage issues do not exist 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Yard waste/garbage issues 	<ul style="list-style-type: none"> • By-law Enforcement
<ul style="list-style-type: none"> • Noise violations 	<ul style="list-style-type: none"> • By-law Enforcement
<ul style="list-style-type: none"> • Altering a heritage building without obtaining necessary approvals 	<ul style="list-style-type: none"> • Development Services (Building Department)
<ul style="list-style-type: none"> • Any other minor property standards or yard maintenance issues that do not have health, life, safety or property damage implications that pose a risk to humans, and tend to not have significant off-site implications 	<ul style="list-style-type: none"> • By-law Enforcement