



HAMPTON

PLANNING, ENGINEERING & DEVELOPMENT DEPARTMENT

Policy Title:	By-Law Enforcement Policy	By-Law Ref.:	Building By-Law
Policy No.	2024-03-BEP	Supersedes:	PD 2020-03POL
Effective Date:		Council Date:	

PURPOSE

Hampton has numerous by-laws that may have a direct influence on the day to day lives of residents of, and visitors to Hampton. These by-laws regulate things as diverse as use of land, the prevention of excessive noise, the ownership of dogs, signage and minimum standards for properties. The various by-laws bestow certain powers upon the Enforcement Officer, as well as, local peace officers (RCMP), prescribe various offenses and outline penalties associated with these offences.

Whereas these by-laws provide an essential legislative framework, care must be taken to ensure that enforcement action is measured and appropriate to the circumstances, and that the Enforcement Officer/ local peace officer have the power to use his or her discretion when deciding upon the appropriate course of action. Whereas enforcement action in the form of a charge or Summary Offence Ticket should remain an option, voluntary or negotiated compliance should always be the first choice, and the Enforcement Officer/ local peace officer should be afforded every opportunity to use this option.

The purpose of this policy is to provide a general outline of the responsibilities not only of the Enforcement Officer/ local peace officer, but also Hampton staff when attempting to use this option.

DEFINITIONS

By-Law - any by-law enacted or adopted by Hampton

CAO - the Chief Administrative Officer of Hampton

Councilor - person elected to the Hampton Council

Enforcement Officer - the By-Law Enforcement Officer, Dog Control Officer, Building Inspector, Development Officer, Local Peace Officer or any other person appointed by Hampton Council, Chief Administrative Officer or empowered by legislation to enforce the by-laws of Hampton.

Initiate Prosecution - the laying of information and issuing a summons under the provisions of the NB POPA System, by use of either an Information the Criminal Code of Canada or a Summary Offense Ticket under the Summary Proceedings Act

Staff - any person employed in any capacity, paid or otherwise, by Hampton.

Hampton - the town of Hampton.

Local Peace Officer - any member of a Municipal, Provincial or Federal law enforcement agency that is contracted to provide police services to the Town.



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POLICY STATEMENT

Hampton does not have the resources to proactively review or inspect properties on a regular basis in order to determine compliance with various by-laws; therefore, Hampton will rely primarily on public complaints to identify non-compliance. Issues observed as a matter of public health and safety will be considered the exception.

Taking Complaints

It shall be the policy of Hampton that anonymous complaints will not be recorded or investigated*. Complaints regarding by-law issues must be received via letter, electronic mail or complaint form and must include the name, address and contact details of the person making the complaint. Matters of an urgent nature, i.e. public health & safety, will be considered the exception.

Information regarding a complaint is kept confidential under the *New Brunswick Right to Information and Protection of Privacy Act*. However, a complainant may be identified if the issue proceeds to court and the complainant is required to act as a witness for the prosecution.

**Reasoning for not accepting anonymous complaints is to ensure that should a complaint escalate to the laying of information in court, Hampton has the means of contacting the complainant to stand as a witness for the prosecution.*

Responsibilities of the CAO, or Designate

The CAO, or designate, will oversee the enforcement process to ensure that the best interest of the residents of Hampton are served.

In instances where enforcement action is pending, or legal proceedings have begun, the CAO or designate will ensure that the responsibilities of all stakeholders outlined in this policy are adhered to.

Responsibilities of Staff and Councilors

Councilors will refer all perceived infractions to the Enforcement Officer for investigation, will cease involvement at that time and will refer any inquiries relating to the infraction to the Enforcement Officer.

Hampton staff will also refer all perceived infractions to the Enforcement Officer for investigation, will cease involvement at that time and will refer any inquiries relating to the infraction to the Enforcement Officer.

Responsibilities of the Applicable Enforcement Officer*

The Enforcement Officer will ensure that the CAO or designate is made aware of all complaints by means



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of a regular report. In cases where legal proceedings may result, the Enforcement Officer will ensure that the CAO is made aware prior to the commencement of such action.

The Enforcement Officer is encouraged to use any and all options available to obtain compliance with the various by-laws of Hampton. Whereas certain issues leave little recourse for an alternative form of action, others provide a great deal of latitude. Wherever possible and appropriate, it is preferable for the Enforcement Officer to obtain voluntary or negotiated compliance in preference to action to Initiate a Prosecution.

The Enforcement Officer should be encouraged to make use of education, written warnings and undertakings where compliance is not immediately forthcoming. Written warnings and undertakings provide evidence of the steps taken by the Enforcement Officer when trying to resolve an issue, provide details of the opportunities for compliance given to the person in question, and provide excellent evidence of the attempts to gain compliance should an issue result in action to Initiate a Prosecution.

Certain by-law infractions, such as serious incidents involving dogs or instances where voluntary or negotiated compliance is neither forthcoming nor appropriate, leave the Enforcement Officer little recourse other than to Initiate Prosecution. In such cases, the Enforcement Officer should take all necessary steps to ensure that the most appropriate charge with the greatest chance of a successful prosecution is laid.

Enforcement Officers will not be required to respond to by-law violations unless it is during regular business hours, within the Enforcement Officers scope of duty or where the violation poses significant risk to public health & safety or the environment outside of regular business hours.

*See Schedule A for Officer Responsibilities as determined by Council Motion or Agreement

Associated Policies

- Building Permitting and Inspection Policy (No. 2024-01-BPIP)



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SCHEDULE A

Hampton By-Law Enforcement Officer Responsibilities (as per Motion of Council as applicable)

- By-Law HAM-2024-18 – Amending Zoning By-Law HAM-2023-16
- By-Law HAM-2023-15 - Municipal Plan By-Law
- By-Law 165-05 - Signage By-Law
- By-Law HAM-2024-19 - Building By-Law
- By-Law HAM-2024-17 - Subdivision By-Law
- By-Law 112-91 - Sewage By-Law
- By-Law HAM-203-12 - Transient Trader By-law
- By-Law 193-11 - Dangerous or Unsightly Premises

Dog Constable/ Other Appointee Responsibilities

- By-law HAM-2023-09 Animal Control By-law (including all administrative duties stemming from warnings/ fines/ prosecutions)

Royal Canadian Mounted Police Responsibilities

- By-Law HAM-2023-13 – Noise By-Law
- By-Law HAM-2023-08 – Police Protection Services By-Law