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| <b>CORPORATE POLICY</b>                        |          | <b>CP.1.1.5</b>                                 |
| <b>Section</b>                                 | <b>1</b> | Administration                                  |
| <b>Subsection</b>                              | <b>1</b> | General   |
| <b>Chapter</b>                                 | <b>5</b> | Frivolous, Vexatious or Unreasonable Complaints |
| <b>Approval Authority:</b><br>2019.11.27-CR-02 |          | <b>Effective Date:</b><br>November 27, 2019     |

## 1. PURPOSE:

The Corporation of the Town of Innisfil (the “Town”) is committed to providing exemplary service and ensuring that municipal resources are used effectively and efficiently to maintain service excellence and responsiveness to all members of the public.

This policy addresses **frivolous, vexatious or unreasonable** requests or complaints that consume a disproportionate amount of Town time and resources, ultimately impeding staff from attending to other essential issues. This policy will guide staff to identify situations that meet the criteria of **vexatious, frivolous or unreasonable**, and the associated actions that may be taken in such circumstances. Actions taken pursuant to this policy will ensure that municipal resources are used effectively and efficiently, while maintaining a high level of service excellence and responsiveness to all members of the public.

## 2. SCOPE/APPLICATION

This policy is designed to provide members of the public and staff with the tools needed to ensure municipal resources are managed equitably for all members of the public. The decision to classify a person’s behaviour as **frivolous, vexatious or unreasonable** may have serious consequences for the subject person, including restricting their access to municipal services or limiting their right to express themselves as they choose. All decisions made under this Policy are made with due regard to the subject person’s rights under the *Canadian Charter of Rights and Freedoms*, the *Human Rights Code* and the Town’s obligations to its citizens and its staff.

Staff are not expected to put themselves at risk or jeopardize anyone’s safety when dealing with any real or perceived situation. If at any time staff feels threatened, they are to call 9-1-1 for assistance and advise their Manager/Supervisor so that measures can be taken to protect you as required and to investigate the situation. If the nature of an issue is known in advance to be contentious (at a meeting, event, or any other location where town staff is present) staff is to alert the police. Depending on the nature and severity of the issue, staff may request the attendance of the police, or another staff member.

### 3. EXCEPTIONS

This policy applies to all inquiries and complaints made by members of the public unless:

- Where a meeting is covered under the Procedural By-law, the procedures established under that By-law take precedence over this Policy.
- Complaints made to the Town's Integrity Commissioner under the Town's Code of Conduct are not subject to this policy.
- This policy is meant to be read in conjunction with the Town's Trespass to Property Policy (CP.01-14-10), the Town's Customer Service Response Policy and Standards (CP.03-11-02) and the Town's Respectful Public Interactions Policy (CP.1.1.11).
- Nothing in this policy is meant to conflict with the Town's Respectful Workplace Policy (CP.07-04-06), nor the Town's Code of Conduct & Conflict of Interest (CP.03-10-06).

### 4. IDENTIFYING THE CONDUCT OR BEHAVIOUR

For the purposes of this policy,

**Frivolous** means means a complaint that is reasonably perceived by Town staff to be (a) without reasonable or probable cause, (b) so meritless on its face that investigation would be disproportionate in terms of time and/or cost, or (c) trivial;

**Unreasonable** means a complaint that is abusive to the complaint process as outlined in this policy.

**Vexatious** means that the complaint or request for service is initiated with the intent to embarrass or annoy, or is part of a pattern of conduct by the complainant or requestor that amounts to an abuse of the Town's processes.

Although each case must be determined in light of its own circumstances, below are examples meant to help staff identify **frivolous, vexatious or unreasonable** conduct. It is understood that these examples are not determinative; the list is not exhaustive, nor does any action set out in the list necessitate application of this Policy.

Examples of **frivolous, vexatious, or unreasonable** conduct may include, but are not limited to:

- Complaints, inquiries, demands regarding an issue which staff have already investigated and determined to be groundless;
- Covertly recording meetings and conversations with the Town;
- Complaints concerning an issue which is substantially similar to an issue which staff have already investigated and determined to be groundless (ie. With respect to the same party or same property);

- Unreasonable conduct which is abusive of the Town's complaints' process, including but not limited to:
  - Excessive or multiple lines of inquiry regarding the same issue (ie. Pursuing a complaint with Town staff in multiple departments and/or elected officials simultaneously), while a complaint is being investigated or has been deemed to be groundless;
  - Repeatedly challenging the findings of a complaint investigation, complaining about the outcome and/or denying that an adequate response was given;
  - Refusing to accept that an issue falls outside the scope of the Town's jurisdiction;
  - Making unreasonable demands on Town staff by, for example, insisting on responses to complaints and inquiries within an unreasonable time-frame, demanding meetings with Town staff without justifiable reason, excessive correspondence either to one member of Town staff in a short time frame, or to numerous staff;
  - Making statements or providing representations that the subject person 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;
  - Using new complaints to resurrect issues which were investigated and completed in previous complaints;
  - Changing the basis of the complaint as the investigation progresses and/or denying statements made at an earlier stage;
  - Refusing to co-operate with the investigation process while still wanting the complaint to be resolved;
  - Failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to obtain clarification of the concerns
  - Making unjustified complaints or defamatory remarks about Town Staff in an effort to see them disciplined; or
  - Providing false or misleading information.

Each situation will be considered on a case by case basis. The decision to classify the subject person's conduct as **frivolous, vexatious or unreasonable** will be made by the relevant Service Area Leader or designate, in consultation with the Leadership Team.

Deciding whether a subject person's conduct is **frivolous, vexatious or unreasonable** requires a flexible approach, taking into account all circumstances. There is no rigid test or criteria for deciding whether conduct is **frivolous, vexatious or unreasonable**. The key question is whether there is a pattern of conduct likely to cause distress, disruption or irritation, without proper or justified cause. The decision may be made as a result of a repeated pattern of conduct when, on multiple occasions, the subject person engages in one or more behaviours identified as **frivolous, vexatious or unreasonable**. Staff must establish, through documented words and/or actions of the subject person (ie. Emails, letters, posts on social media, photographs, voicemails and staff notes reporting a conversation or incident), that the conduct of the subject person is **frivolous, vexatious or unreasonable**, before applying the restrictions outlined in this policy.

## 5. ADDRESSING THE CONDUCT OR BEHAVIOUR

### **Employee Responsibilities**

In the event suspected *frivolous, vexatious or unreasonable* conduct is experienced or observed, the employee will consult with their Service Area Leader or his or her designate, providing any supporting materials identifying the nature of the conduct including, as appropriate:

- The number of requests and complaints made by the subject person and the status of each;
- The length of time that staff have been in contact with the subject person, including the time and resources invested in the issue(s); The history of the interactions (where appropriate) and the amount of correspondence that has been exchanged with the subject person;
- A summary of the steps taken by Town staff to resolve the issue;
- The nature of the subject person's behavior;

### **Service Area Leader Responsibilities:**

The Service Area Leader or his or her designate will:

- Review the information provided by staff and determine in a timely manner to determine whether:
  - The request has been dealt with properly and in line with the relevant procedures;
  - Staff have made reasonable efforts to satisfy or resolve the request;
  - That the subject person is not presenting new material or information that demonstrates there is an issue within the scope of Town services and/or jurisdiction;
- Determine if the subject person's conduct warrants the application of restrictions; and
- Work with staff and Senior Leadership to determine appropriate restrictions, how to inform the subject person of the restrictions and determine a review date for removing, modifying or continuing restrictions.

### **Leadership Team Responsibilities:**

A panel of the Leadership Team (or their appropriate designates) consisting of no less than 3 persons, not including the Service Area Leader, will review the information provided by staff, as well as the determination by the Service Area Leader with respect to proposed restrictions and review date, and determine whether:

- The request has been properly investigated;
- Communication with the subject person has been adequate;
- The proposed restrictions and proposed review date are justified in light of the circumstances; and

- The subject person is not attempting to provide any significant new information that would warrant further staff engagement.

## 6. APPLICATION OF RESTRICTIONS AND NOTICE

When a decision has been made to classify the subject person's conduct as ***frivolous, vexatious or unreasonable***, the subject person (where possible and appropriate) will receive written notification from the Town's Legal Services Department detailing:

- The reasons for the decision;
- The restrictions to be applied;
- The review date; and
- What it means for the subject person's contact with the Town.

Restrictions available under this Policy for ***frivolous, vexatious or unreasonable*** conduct shall be tailored to deal with the individual circumstances of each case and may include, but are not limited to:

- A letter of warning may be issued to the subject person for any conduct that is in violation of this policy;
- Limiting the subject person to a particular point of contact at the Town (where appropriate the MoAR system be flagged to advise other staff members not to respond to the subject person, but to refer them to the point of contact);
- Limiting the subject person's correspondence with staff to a particular format only (ie. Email only), time (i.e. Phone calls only at specific times and days of the week) or duration (i.e. Conversations may only last no longer than 10 minutes), this may include technological or electronic limiters, such as muting or blocking on social media, email filters, and automatic telephone redirects;
- Requiring that the subject person only contact the Town through a third party agent, such as a solicitor, counsellor, family member or friend;
- Requiring any face-to face interactions between the subject person and staff to take place in the presence of an appropriate witness and/or police;
- Requiring that the subject person produce full disclosure of documentation or information before staff will further investigate a complaint;
- Instructing staff not to respond to further correspondence from the subject person regarding the complaint or a substantially similar issue;
- Instructing staff not to investigate any complaints regarding an issue that has already been investigated, or which is substantially similar to an issue which has already been investigated;
- Instructing staff to significantly reduce or completely cease responding to further complaints and correspondence from the subject person;
- Instructing staff to close a matter;
- Limiting or regulating the subject person's use of municipal services (ie. Community centres, libraries, registration in programs, access to technology systems, etc.);

- Refusing the subject person access to any municipal buildings except by appointment or scheduled delegations at public meetings of Council;
- Informing the subject person that further contact on the matter will not be acknowledged or replied to;
- Pursuing legal action; and/or
- Any other actions deemed appropriate by the panel of Senior Management.

## **7. REVIEW OF RESTRICTIONS**

The subject person shall have 30 days from the date upon which Notice is received of restrictions to appeal the decision by providing to the CAO a written letter outlining the reasons for the appeal. The CAO may confirm, rescind or amend the restrictions, review date, extension or modifications within 10 days of receiving the appeal.

Any restrictions made under this Policy shall contain a review date. This date is set at the discretion of the Service Area Leader or his or her designate, having considered the circumstances of the case. A review date may be 3 months or longer from the date on which the restrictions were put in place where the conduct or behavior has been deemed severe or where the subject person's conduct or behaviour has established a pattern of behavior necessitating a longer period of restriction.

The status of the subject person will be reviewed by the relevant Service Area Leader or his or her designate on or before the review date, the outcome of which shall be communicated to the subject person in writing.

The Service Area Leader or his or her designate, in consultation with the Leadership Team, may extend the restrictions beyond the review date where appropriate, in which case the subject person shall be notified of the extension, the reasons for the extension and provided a new review date. The subject person shall have 30 days from the date upon which Notice of Extension/Modification is received of an extension/modification to appeal the decision by providing to the CAO a written letter outlining the reasons for the appeal. The CAO may confirm, rescind or amend the restrictions, review date, extension or modifications within 10 days of receiving the appeal.

Where restrictions imposed are not respected by the subject person, further restrictions may be imposed upon review in accordance with this Policy.

In the event that complaints cannot be resolved under this Policy, they may be submitted to the Provincial Ombudsman's office.

## **8. RECORD RETENTION**

Staff are responsible for maintaining detailed records of their interactions in order to justify any action being taken to restrict the subject person's access to the Town. Records must be retained in accordance with the Town's Records Retention Policy (CP.03-17-01).

**9. POLICY ADMINISTRATION**

This policy shall be administered by the Legal Services Department and reviewed once every 3 years, or as required based on revisions to corporate practices or governing legislation.

**10. REVISION HISTORY**

| <b>Revision Number</b> | <b>Date</b> | <b>Summary of Changes</b> | <b>Approval Authority</b> |
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