

CORPORATION OF THE TOWNSHIP OF SOUTH ALGONQUIN

BY-LAW NO. 19-589

Being a by-law to adopt HR Policy ADM 009-00; Unreasonable Behaviour Policy within the Township of South Algonquin

WHEREAS Section 8(1) of the Municipal Act, S.O. 2001, as amended, states that the powers of a Township under this or any other Act shall be interpreted broadly so as to confer broad authority on a Township to enable it to govern its affairs as it considers appropriate and to enhance the Township's ability to respond to municipal issues; and

WHEREAS The Township of South Algonquin is committed to providing professional and timely service to all members of the public and aims to address inquiries, requests and complaints in the same manner, and

WHEREAS Vexatious, frivolous and/or unreasonable persistent requests may compromise the Municipality's ability to deliver high quality service in a timely manner. As such, these situations may require the Municipality to put limits on the contact with individuals or groups who meet the criteria of vexatious, frivolous and/or unreasonable as outlined in this policy

NOW THEREFORE the Council of the Corporation of the Township of South Algonquin enacts as follows:

1. The Unreasonable Behaviour Policy as outlined in Schedule "A" and forming part of the by-law is hereby adopted.
2. That this by-law will come into force and take effect on its passing.

READ A FIRST AND SECOND TIME this 6th day of March, 2019

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Jane A. E. Dumas, Mayor

Holly Hayes, CAO/Clerk-Treasurer

READ A THIRD TIME AND PASSED AND ENACTED this 6th day of March 2019.

Jane A. E. Dumas, Mayor

Holly Hayes, CAO/Clerk-Treasurer

CORPORATION OF THE TOWNSHIP OF SOUTH ALGONQUIN

SUBJECT:	UNREASONABLE BEHAVIOUR POLICY			
TYPE:	ADMINISTRATION		POLICY NO. ADM-09-00	
DATE: February 11, 2019	REVIEW DATE:	FREQUENCY:	REL. BY-LAW: 19-589	# OF PAGES: 3

Purpose:

The Township of South Algonquin is committed to providing professional and timely service to all members of the public and aims to address inquiries, requests and complaints in the same manner.

Vexatious, frivolous and/or unreasonable persistent requests may compromise the Municipality’s ability to deliver high quality service in a timely manner. As such, these situations may require the Municipality to put limits on the contact with individuals or groups who meet the criteria of vexatious, frivolous and/or unreasonable as outlined in this policy.

This policy will guide staff to identify situations that meet the criteria of vexatious, frivolous and/or unreasonable and the associated actions that may be undertaken in such circumstances. The aim of this policy is to contribute to the overall intent of dealing with individuals or groups in ways which are consistent, fair and reasonable while acknowledging that there may be a need to shield staff from unreasonable behaviour.

Scope:

1. Background

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This policy is not intended to deal with generally difficult people, but rather it only applies to unreasonable behaviour and unreasonably persistent requests from the same individual or group.

The decision to classify behaviour as unreasonable, frivolous or vexatious may have serious consequences for the individual or group, including but not limited to restricting access to municipal services.

The decision may be as a result of a repeated pattern of conduct, in which on several occasions, an individual or group engages in one or more of the identified examples of unreasonable behaviour or actions identified as unreasonable, frivolous or vexatious. This does not preclude a single significant incident from being considered under this policy.

2. Examples of Unreasonable Behaviour

For the purpose of this policy, frivolous and vexatious behaviour will be defined as any interaction(s) that are initiated with the intent to embarrass, delay or annoy, or is part of a pattern of conduct by an individual or group.

The list below outlines possible examples of unreasonable behaviour. This list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category.

- a) Refusing to specify the grounds of a complaint,
- b) Changing the basis of the complaint/request as the matter proceeds,
- c) Denying or changing statements made at an earlier stage,
- d) Covertly recording meetings and conversations,
- e) Submitting falsified documents from themselves or others,
- f) Making excessive demands on the time and resources of staff with lengthy phone calls, number of emails to a single or numerous staff, or voluminous requests,
- g) Refusing to accept the decision – repeatedly arguing points with no new evidence,
- h) Persistently approaching the Municipality through different routes about the same issue,
- i) Causing distress to staff,
- j) Making unjustified complaints about staff who are attempting to deal with issues, and/or seeking to have them reprimanded.

3. Examples of Vexatious or Frivolous Requests

The list below outlines possible examples of vexatious or frivolous requests. This list is not exhaustive, nor does one single feature on its own necessarily imply that the request will be considered vexatious or frivolous.

- a) Submission of requests with very high volume and frequency of correspondence,
- b) Requests for information the requester has already seen or clear intention to reopen issues that have already been considered,
- c) Where complying with the request would impose significant burden on the Municipality in terms of expense, and negatively impacting the ability of staff to provide service to other individuals,
- d) Where it appears that the requestor seeks to cause inconvenience, disruption or annoyance through the request,
- e) Harassing the Municipality and/or staff. This could include very high volume and frequency of correspondence, or combining requests with accusations and complaints.

4. Procedure

In order to determine if a request is deemed unreasonable, vexatious or frivolous, staff must follow the process identified below:

- a) Identify the problem
- b) Staff provide recommendations
- c) Council notification and approval
- d) Application of restrictions

a) Identify the Problem

Before deciding to apply any restrictions, the Municipality must ensure that:

- i. The request has been dealt with properly and in line with the relevant procedures and statutory guidelines.
- ii. Staff has made reasonable efforts to satisfy and resolve the request.
- iii. The individual is not presenting new material or information about the situation or that it is not a new request.

Each case will be considered on an individual basis. The decision to classify behaviour as unreasonable or to classify the request as vexatious will be made by the Department Head of the relevant service area in consultation with the CAO/Clerk-Treasurer.

b) Staff Recommendations

If a staff member believes that a request is unreasonable, frivolous or vexatious, the employee should consult with their supervisor, provide supporting materials and advise of the steps that have been taken in attempting to resolve the issue. This should include the length of time that staff has been in contact with the individual or group, history of the interactions, number of requests, nature of the individual or group's behaviour, and amount of staff time that has been consumed and the impact.

The supervisor is responsible for reviewing the information provided by staff in a timely manner and confirming if this policy should apply. The supervisor will review the information provided by staff, determine if the request is unreasonable, vexatious or frivolous, determine the appropriate restrictions, meet with the CAO/Clerk-Treasurer to review recommendations and background, and determine the appropriate method of informing the individual or group.

The CAO/Clerk-Treasurer will review all information provided by staff and will make a determination to classify an individual or group's behaviour as unreasonable or to classify a request as vexatious or frivolous. Determining factors include:

- i. The request has been properly investigated,
- ii. Communication with the individual or group has been adequate,
- iii. The individual or group is not attempting to provide new information when contacting staff.

Following a decision by staff, in consultation with the CAO/Clerk-Treasurer, that an individual or group's behaviour is unreasonable or a request is vexatious or frivolous, the individual or group (where appropriate and possible) will receive written notification that:

- i. Explains what action(s) staff has taken,
- ii. Indicates what restrictions have been applied and how long they will be in effect,
- iii. Advise how the individual or group can appeal the restrictions.

c) Council Notification

Prior to any restrictions being placed on an individual or group, the CAO/Clerk-Treasurer will inform Council of the issue and the details of the restrictions to be applied.

d) Application of Restrictions

Restrictions will be tailored to deal with the individual circumstances and may include one or more of the following (the list is not exhaustive):

- i. Placing limits on the number and duration of contacts with staff per week or month,
- ii. Offering a restricting time slot for necessary calls,
- iii. Limiting the individual or group to one method of communication,
- iv. Requiring any personal contacts to take place in the presence of a witness and in a suitable location,
- v. Requiring the individual or group to make contact by telephone only through a third party (e.g. solicitor, counsellor, friend acting on behalf),
- vi. Limiting or regulating the individual or group's use of the Municipality's services,
- vii. Refusing the individual or group access to municipal buildings except by appointment,
- viii. Informing the individual or group that further contact on the matter of the complaint/request will not be acknowledged or replied to,
- ix. Pursuing legal actions (e.g. Notice of Trespass),
- x. Where efforts to resolve matters with the individual or group have not been successful the case or request may be closed,
- xi. Other actions as deemed appropriate.

5. **Review of Restrictions**

When restrictions are put in place, a review date will be set. This will be based on the circumstance of the case and could be for a period of three months or longer depending on the severity of the situation. The status of the individual or group will be reviewed by the relevant Department Head on or before the review date. Where the Department Head, in consultation with the CAO/Clerk-Treasurer, feels the restrictions should continue, the individual or group will be notified of the reasons and given another date for review.

6. **Dispute**

Once the Municipality has communicated the decision, there is no appeal process at the municipal level.

In the event complaints cannot be resolved through the Municipality's complaint process and/or this policy, they may be submitted to the Provincial Ombudsman's Office in accordance with the provisions of *Bill 8 Public Sector and MPP Accountability and Transparency Act, 2011*.

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