

THE CORPORATION OF THE TOWNSHIP OF NAIRN AND HYMAN

BY-LAW NO. 2023-5

“BEING A BY-LAW TO ESTABLISH A PUBLIC CODE OF CONDUCT POLICY”

WHEREAS the *Municipal Act, 2001, S.O. 2001*, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues.

AND WHEREAS Council of the Township of Nairn and Hyman deems it necessary to adopt a Public Code of Conduct policy;

NOW THEREFORE Council of the Corporation of the Township of Nairn and Hyman hereby enacts as follows:

1. THAT the Council of the Township of Nairn and Hyman does hereby adopt the Public Code of Conduct Policy, attached hereto as Schedule “A”.
2. THAT Schedule “A” forms part of this by-law.
3. THAT this By-law shall come into force and take effect upon receiving the final passing thereof.
4. THAT this By-Law repeals all previous By-Laws and/or Motions of Council pertaining to the same.

Read a first and second time this 13th day of February, 2023.

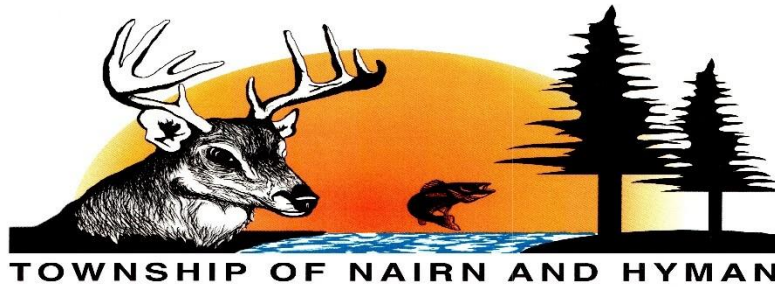
Read a third time and passed in open Council this 13th day of February, 2023.

(signature on original)

Mayor

(signature on original)

Clerk



The Corporation of the Township of Nairn and Hyman

Policy: Public Conduct Policy

Policy Number: 2023-1

Policy Statement

This policy contributes to the objective of dealing with all residents and members of the public in ways that are consistent and fair while acknowledging that there may be a need to protect Staff and Members of Council, and residents of the Township of Nairn and Hyman from unreasonable behavior and frivolous and/or vexatious actions.

Some situations arising from unreasonable behavior may cause concern for the reasonable safety of other individuals on Township premises. Other situations may compromise the enjoyment of Township facilities for all users. Vexatious, frivolous and/or unreasonably persistent requests may consume a disproportionate amount of Member and/or Staff time and resources and can compromise their ability to provide assistance or deliver satisfactory customer service efficiently and effectively. Such requests may also impede Staff from attending other essential issues. These situations and requests may require the Township to put restrictions on the contact that some individuals have with the Township.

This policy does not apply to those who approach the Township with general complaints. This policy applies to members of the public whose behaviors and actions are unreasonable, frivolous and/or vexatious and will guide staff to identify situations that meet that criteria. Determining whether particular behaviors or actions are unreasonable, frivolous or vexatious can be a balancing exercise that requires all circumstances of a particular case to be taken into account. In many cases the key question is whether the behaviors or actions are likely to cause distress or disruption, without proper or justified cause.

Purpose

The Township of Nairn and Hyman aims to provide exemplary services to all members of the public and to address service requests and complaints equitably, comprehensively and in a timely manner, while promoting a respectful, tolerant and harassment-free

workplace between Members of Council, officers and employees of the corporation, and the public.

In order to achieve these objectives, unreasonable behavior and/or frivolous and vexatious complaints or requests from some members of the public who require services or access Township premises, may need to be limited in a manner that is clear, consistent, reasonable and proportional to the individual(s) action(s). Any restrictions made under this policy are dependent on particular circumstances, and there is an opportunity for the affected individual to have any restrictions reviewed and/or appealed.

Scope

This policy is to be implemented if behaviours or requests from an individual are determined to be unreasonable, frivolous and/or vexatious as defined herein. The following behaviours or requests may take place in circumstances including, but not limited to, one or more of the following:

- Public meetings;
- Written communication;
- Telephone communication
- In-person communication;
- Electronic communication, including email and social media; and/or
- Interactions at Township property, parks or facilities.

Definitions

Harassment or Harass means engaging in a course of behaviour, comment or conduct, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwanted. It includes but is not limited to any behaviour, conduct or comment that is directed at or is offensive to another person:

- a. on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the Human Rights Code; or
- b. which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate or ridicule the recipient.

Frivolous means that the complaint or request is one that has no serious purpose or value, about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost.

Unreasonable behaviour involves conduct that is unacceptable in all circumstances regardless of how stressed, angry or frustrated an individual is, because it unacceptable compromises the health, safety, and security of Staff, other service users or the individual themselves. Further, requests or complaints that are incomprehensible, inflammatory or based on conspiracy theories are also considered unreasonable.

Vexatious means that the complaint or request for service is initiated with the intent to embarrass or harass the recipient, or is part of a pattern of conduct by the complainant or requestor that amounts to an abuse of the complaint process or request for service.

Application

The decision to classify someone's behaviour as unreasonable, or to classify a request or complaint as frivolous and vexatious, could have serious consequences for the individual, including restricting his or her access to Township services, facilities and Staff.

The decision may be as a result of a repeated pattern of conduct when, on several occasions, a person engages in one or more behaviours or actions identified as unreasonable, frivolous and/or vexatious, or it may be a single significant incident that requires the invocation of this policy.

If an incident presents an immediate threat, contact 9-1-1.

Examples of Unreasonable Behaviour:

Examples of what might be considered unreasonable behaviour are provided below. The 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:

- Verbally or physically intimidating, harassing, or threatening others;
- Utilizing hostile, loud, abusive, obscene, offensive, rude, explicit, or vulgar language;
- Repeatedly challenging or confronting Staff, or displaying an unreasonable fixation on an individual member of Staff;
- Making excessive demands on the time and resources of Staff with lengthy phone calls, emails to numerous Staff, or frequent detailed letters, and expecting immediate responses;
- Refusing to accept the decision/repeatedly arguing points with no new evidence;
- Persistently approaching the Township about the same matter when it has been considered and dealt with;
- Demanding services that are of a nature or scale that cannot be provided by the Township;
- Making unjustified complaints about Staff who are trying to deal with the issues, and seeking to have them replaced;
- Engaging in aggressive, disrespectful, intimidating or bullying behavior while accessing a Township program, service program, event or facility;
- Loitering, causing a disturbance or acting under the influence of drugs and alcohol while attending Township premises;
- Attending a Staff Member's private residence or private property uninvited;
- Sharing with others, or circulating derogatory or insulting statements regarding Staff and/or Township representatives;
- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Changing the basis of the complaint/request as the matter proceeds;
- Denying or changing statements made at an earlier stage;

- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Any behavior that poses a health or safety risk to Staff.

Examples of Vexatious or Frivolous Requests:

Examples of what might be considered vexatious or frivolous are provided below. The list is not exhaustive, and for a request to be considered as vexatious or frivolous it is likely that one or more than one of the examples is relevant:

- Submission of obsessive requests with high volume and frequency of correspondence;
- Requests for information the requester has already seen, or clear intention to reopen issues that have already been considered;
- Where complying with the request would impose a significant burden on the Township in terms of expense, and negatively impact the ability to provide service to others;
- Where the requester states that the request is actually meant to cause maximum inconvenience, disruption or annoyance;
- Where the request lacks any serious purpose or value. An apparent lack of value would not usually be enough on its own to make a request vexatious, but may when considered with other examples; and/or
- Harassing the Township which could include very high volume and frequency of correspondence or mingling requests with accusations and complaints.

Furthermore, a pattern of conduct occurs when, on several occasions, an individual engages in one or more of the following:

1. Brings complaints concerning an issue(s) that Staff have already investigated and concluded;
2. Brings complaints concerning an issue that is substantially similar to an issue that Staff have previously investigated and concluded and no new information is being introduced; and/or
3. Engages in unreasonable conduct which is abusive of the request for services or complaint process, including but not limited to the examples set out under this policy.

Responsibility/Application

All users of this policy are required to document the actions of the individual, and their own actions, in as much detail as possible.

Certain situations involving unreasonable behaviour on Township property, parks or facilities may require immediate action by way of a Trespass Notice, after all possible alternative measures are considered and/or implemented.

Certain situations involving unreasonable behaviour that does not require such immediate action, as well as those circumstances that involve frivolous and vexatious requests, specific responsibilities include as follows:

1. Identifying the Problem

Before deciding to apply any restrictions, the Township will ensure that:

- a) The request has been dealt with properly and in line with the relevant procedures and statutory guidelines.
- b) Staff have made reasonable efforts to satisfy or resolve the request.
- c) The customer 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 a customer's behavior as unreasonable or to classify the request as vexatious will be made by the CAO/Clerk in consultation with the Department Head of the relevant service area.

2. Dealing with the Complaint

Employee

If an employee believes that a request is unreasonable, frivolous or vexatious, the employee should consult with their Department Head, provide any supporting materials and advise the Department Head of the steps that have been taken to resolve the issue, including as appropriate:

- a) The length of time that staff have been in contact with the customer, history of the interactions (where appropriate) and the amount of correspondence that has been exchanged with the customer;
- b) The number of requests that the customer has brought and the status of each
- c) The nature of the customers' behavior.
- d) Amount of time that has been consumed and the impact.

Department Head

The Department Head is responsible for reviewing the information provided by staff in a timely manner and confirming that this policy should apply or not. Department Heads shall contact the CAO/Clerk to determine if the complainant is contacting multiple Town staff/departments.

The Department Head will:

Review the information provided by staff and determining if the customer's behavior warrants the application of restrictions.

- a) Work with the staff to determine appropriate restrictions, how to inform the customer of the restrictions and determine a review date for removing, modifying or continuing restrictions.
- b) Meet with the CAO and outline the situation including proposed restrictions, how to inform the customer of the restrictions and determine a review date for removing, modifying or continuing restrictions.
- c) Are responsible for ensuring that relevant staff are aware of and trained on this policy and any accompanying guidelines and protocols.

CAO

Before making a determination to classify a customer's behaviour as unreasonable or to classify a request as frivolous or vexatious the CAO must be satisfied that;

- ii. The request has been properly investigated.
- iii. Communication with the member of the public has been adequate; and
- iv. The member of the public is not attempting to provide new information when contacting staff.

When the decision, in consultation with the CAO has been taken to classify an individual's behavior as unreasonable or to classify a request as frivolous or vexatious, the customer (where possible and appropriate) will receive written notification that:

- Detail what action staff have taken and why.
- Explain what it means for the individual's contacts with the Corporation.
- Advise how long the restrictions will last and when the decision will be reviewed.
- Advise the individual of how they could appeal the restrictions.
- Notify Council

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):

- a) Placing limits on the number and duration of contacts with staff per week or month.
- b) Offering a restricted time slot for necessary calls.
- c) Limiting the individual to one method of contact (telephone, letter, email, etc.).
- d) Requiring the individual to communicate only with one named member of staff.
- e) Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- f) Requiring the individual to make contact by telephone only through a third party e.g. solicitor/ counsellor/ friend acting on their behalf.
- g) Limiting or regulating the individual's use of the Township's facilities, except by appointment.
- h) Informing the customer that further contact on the matter of the complaint/request will not be acknowledged or replied to.
- i) Pursuing Legal actions e.g. issuance of Notice of Trespass.
- j) Where efforts to resolve matters with the customer have not been successful the case or request may be closed.
- k) Other actions as deemed appropriate.

Review of Restrictions

When any restrictions are put in place, a review date will be set. This will be based on the circumstances of the case and could be for a period of 3 months or longer depending on the severity of the situation. The status will be reviewed by the relevant Department Head/CAO on or before the review date. The individual (where possible) will be informed of the outcome of the review. Where the Department Head, in

consultation with the CAO feels the restrictions should continue, the individual will be notified of the reasons and given another date for review.

Dispute

The individual shall have the ability to appeal directly to the Corporation, regarding the decision to impose restrictions, by addressing their concerns in writing to the CAO/Clerk. The CAO shall review the appeal and may confirm, rescind or amend the restrictions.

In the event complaints cannot be resolved through the Township'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.

Policy Administration and Review

This policy shall be administered by the CAO/Clerk and will be reviewed every three (3) years or as required based on revisions to corporate practices or Provincial legislation.

Implementation

This Policy shall become effective immediately upon approval by Council.