

# Report



<b>Report No.</b> DS2020-083	<b>To:</b> Council	<b>Prepared By:</b> Curtis Shelswell, Chief Municipal Law Enforcement Officer
<b>Meeting Date:</b> August 12, 2020	<b>Subject:</b>  Review of Township By-laws	<b>Motion #</b>  _____
<b>Roll #:</b>		<b>R.M.S. File #:</b>

<b>Recommendation(s):</b>	<b>Requires Action</b> <input checked="" type="checkbox"/>	<b>For Information Only</b> <input type="checkbox"/>
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It is recommended:

1. That Report No. DS2020-083 be received and adopted.
2. That the recommendations contained in Staff Report DS2020-083 be implemented and the required by-law amendments be brought forward for Council's consideration as outlined.

**Background:**

The Township's Municipal Law Enforcement Division was established in 2008 with two full-time contract positions established for the enforcement of the Township's By-laws. Their main responsibilities included the enforcement of the Clean and Clear, Zoning, Pushing of Snow, and Parking By-laws throughout the Township. Prior to the establishment of the Municipal Law Enforcement (MLE) Division in 2008, the responsibilities for municipal by-law enforcement were completed by the Building Department staff, when time permitted.

Since 2008 Municipal Law Enforcement staff responsibilities have continued to expand and grow. In addition, the focus of staff's public interactions have shifted towards education and awareness rather than strict prosecution. This focus has resulted in staff's daily duties requiring more of a communications role with the public and mediation between parties to gain understanding of by-laws and obtain compliance. This approach while certainly more customer focused does require additional MLEO staff time and resources in the execution of their daily duties.

In 2010, MLE Division assumed the responsibility for enforcement of the Animal Control By-law, a contract previously held by the Orillia SPCA. This meant that MLEO's would proactively enforce the provisions of the Animal Control By-law related to dogs including the following;

- Dog at large
- Failing to remove and properly dispose of excrement □ Annual dog tag requirements, and □ Barking excessively.

In addition, MLEO would also investigate dogs acting aggressive and dog bites/attacks on domestic animals or humans through the Dog Owners' Liability Act.

In 2011, the MLE Division created a full-time compliment with a Chief Municipal Law Enforcement Officer, replacing one of the contracts while the other full time contract remained in place working Monday to Friday, 35 hours per week. In the fall of 2011, MLE staff repealed the Animal Control By-law and introduced a Canine Control By-law that included provisions to assist the division with dogs that have bitten/attacked individuals or domestic animals through the Dangerous Dog legislation.

A Kennel Licensing By-law was also enacted in 2011. Through consultation with the current kennel owners, this new By-law established provisions specific kennel operations, solidified the kennel numbers, and required kennels to be licensed and inspected annually. A Zoning By-law amendment was also enacted to establish a minimum lot size requirement in relation to the permitted number of dogs, it also established separation distances from proposed kennel facilities to lot lines.

Throughout 2011 and 2012, MLEO's main responsibilities focused on the following seven (7) by-laws: Canine Control By-law, Clean and Clear, Pushing of Snow, Kennel Licensing, Sign, Pool/Fence and the Parking By-laws; with a large portion of the MLEO time focused specifically on the Canine Control By-law. In the fall of 2012 the existing Noise By-law established in 2005 was repealed and replaced with By-law No. 2012-167; however as noted above, this was not one of the by-laws requiring significant time for education or enforcement by MLE staff. Below are a few examples of provisions that prohibited noise during time periods that were included in the new by-law:

- Persistent howling, calling, whining or other similar persistent noise making by any domestic pet or any other animal kept or used for a purpose, other than livestock.
- Noise made by yelling, shouting, hooting, singing or other boisterous activity after 11:00 p.m. and prior to 6:00 a.m. of the following day.

The new by-law provided for an exemption request procedure for individuals wanting to create noise outside the prohibited times as identified in the By-law.

A new Fireworks By-law was also introduced in 2012 requiring that all individuals wishing to sell consumer fireworks obtain a license on an annual basis. In addition, a

permit process was established for individuals wishing to discharge consumer or display fireworks. MLE staff were required to complete the administration for this permit approval process.

The Towing By-law was enacted in 2012, and provided for the licensing of all Towing Companies, their trucks and drivers whom are wishing to operate within the Township. The main purpose of the By-law is to regulate fees associated with collision towing. This by-law also required annual licensing, and inspection of each truck and compound facility annually by MLE staff.

By 2013, the MLEO's responsibilities had increased and now included the Canine Control, Kennel Licensing, Clean and Clear, Pushing of Snow, Sign By-law, Pool/Fence By-law, Noise By-law, Fireworks By-law and Towing By-law for both the administration, public education, and enforcement by MLE staff.

A new Refreshment Vehicle By-law was established and required that all refreshment stands be licensed prior to operating on both private and public lands within the Township.

The ATV By-law was updated and amended to permit the use of more Township roads around the boundary of Lake Simcoe between January 1<sup>st</sup> and March 15<sup>th</sup> to access the lake for the purpose of ice fishing.

In 2014, a new Clean and Clear By-law was enacted, this By-law provided MLE staff with more enforcement tools when dealing with private property matters related to the accumulation of debris, unlicensed vehicles and long grass/weeds.

2015 proved to be a challenging year as the MLE Division experienced a substantial shift in responsibilities, from working with acoustical engineers to create a sound monitoring program and assisting in the monitoring of sound levels to working with the Township's solicitor and enforcing the Township's Zoning By-law in relation to land use provisions. The Division's time for the next two years was devoted to matters related to the large scale events and the land use regulations. As a result, occurrences or day to day tasks could not always be completed on time and some files experienced a delayed response from staff. 2015 and 2016 saw staff working around the clock monitoring the events, taking complaints and addressing matters that came up during events. Township Administration staff were also brought in during special events to assist the MLE Division with handling complaints. As a result of the changes, the MLE Division updated several By-laws including: Noise, Refreshment Vehicles, Special Events, and Hawker/Peddler.

During this period of time, both residents and visitors became more familiar with MLEO's services/responsibilities which has in turn increased the call volume to the Division. It was also in 2015 when the Division added noise to the after-hours responsibilities.

In 2016, both members of Council and staff recognized the need to regulate the movement of fill within the Township. The Division was made aware of the growing concern and that if action was not taken, the Township could potentially become a dumping grounds for excess soil. As a result, a moratorium was implemented to prevent any further projects from starting up and as well to provide MLEO with some time to draft a By-law. MLEO worked closely with other surrounding municipalities and the Township's solicitor to draft an extensive Site Alteration By-law that provided a permit process for all site alteration activities. The By-law requires an individual to hire a Qualified Person to provide detailed information on grading, soil testing frequency, silt and settlement plan, traffic management and a tracking system to ensure all soils being transported are account for. The By-law also required the applicant to provide securities to cover any damaged to infrastructure and a deposit to be utilized in the event the project was not completed as approved.

Operations introduced a new Road Occupancy By-law in 2017, this By-law requires businesses and individuals with the opportunity to apply for a permit to utilize any Township road for the purpose of any road cuts, parking of heavy vehicles and/or the repairing/updating of utilities. MLEO has assisted Operations with the enforcement while Operation complete the permit process.

In 2017, the MLEO division hired a second full-time Municipal Law Enforcement Officer for a total complement of 3 including the Chief Municipal Law Enforcement Officer to assist with the additional by-law enforcement duties and increased workload.

The Provincial Government downloaded the responsibilities of the Ministry of Municipal Affairs and Housing Enforcement Unit in 2018 requiring municipalities to establish a Property Standards By-law as the Province would no longer be providing enforcement services related to Landlord Tenant issues. As a result, the Township enacted a By-law under the Building Code that addressed issues related Landlord tenant matters but as well matters directly associated with the health and safety of neighboring properties. The Property Standards By-law replaced the existing Clean and Clear by-law. With the enactment of this By-law, the MLEO's are required to become certified with the Ontario Association of Property Standards Officers, the certification is done in three separate one week courses provided annually. MLEO staff are continuing to work towards their full certification over the next several years.

2019 continued to be an eventful year with a growing number of complaints related to the operation of short term rentals in relation to noise, occupant numbers, parking, garbage and land use issues throughout the Township. As a result, MLEO staff have experienced an increase in after-hours call associated with noise complaints.

Historically, from May through till Labour Day the Division has typically hired seasonal MLE staff, normally students who are currently enrolled in studies associated with enforcement. Seasonal staff are hired to assist with the increased responsibilities during the summer season. These duties include the enforcement of the Parking By-laws, both permit parking and general parking regulations, patrolling the Township parks to enforce

provisions of the Parkland By-law and from time to time providing additional support after-hours when called upon.

Throughout the first ten years of MLEO's existence the Division and the Township has seen a significant amount of change in service levels and population growth. From land use, increase in population, and large scale special events, the MLE Division continues to expand the nature of their responsibilities and the type of occurrences that are being investigated. The Division has gone from a simple dog at large issue as being one of the most common files to land use investigations and being required to photograph and conduct an investigation that may take anywhere from 2-3 months or longer to conclude.

MLEO staff are continually required by Council to provide updated Township by-laws and to draft new legislation under Council's direction in order to ensure the needs of the community are being met. The needs and expectations from the community have also continued to expand based on the continued influx of additional residents from more urbanized settings. Based on the continually changing resident expectations, MLE Officers have been required to assume additional by-law enforcement functions while still attempting to maintain more of an educational/awareness to by-law compliance. In the most recent years this has been more challenging to achieve given the limited staff resources and the increase in inquiries/complaints.

Over the years while the number of occurrences has not increased substantially, but the type of occurrences has including the extent of MLE involvement required. For example, hosting large scale events on several parcels of land in contravention of the Zoning Bylaw, this required staff to have physical evidence each day a contravention took place. MLEO's would attend each parcel and take numerous photographs, document the location and note a brief description. An occurrence of this nature takes up to 3 months to prepare for court, photocopying and printing off all photos and documentation for the court process. Occurrences have continued to become more complex and require more time to investigate and complete; they may also involve other Township departments to provide support or an outside agency to assist in the investigation. Further, staff are often required to amend their hours of work to complete these investigations, as quite often the matter is not one that can be investigated during regular business hours without the assistance of a witness or resident.

The purpose of this report is to highlight some of the significant changes that the MLE Division has experienced over the years and identify some potential efficiencies and deficiencies with the current legislation and the possibility of future updates or amendments to the legislation.

<b>Analysis:</b>
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As indicated in this report the MLE Division has seen a great deal of change over the years, below is a list of By-laws that have been introduced and includes both the pros and cons, as well recommendations for possible amendments for future consideration:

### **Towing By-law (2019-101)**

Even though the By-law has provided some enforcement road blocks from a traffic stand point, this By-law has proven to be effective. The Towing By-law has assisted in standardized invoicing, towed vehicles remaining within the municipality and it has decreased the amount of fly by night companies operating within the Township whose compounds are located outside the municipality resulting in higher towing charges.

Since 2012, the Township has licensed the Tow Company, their Tow Trucks and their Tow Drivers. A Towing company wishing to be licensed under the By-law is required to submit applications for the company, their trucks and their drivers to the Township. Also included with the application must be the following documentation prior to licensing:

- ❖ Drivers Abstract
- ❖ Vulnerable Sector Check
- ❖ Criminal Records Check
- ❖ Copy of their driver's license
- ❖ Health and safety declaration
- ❖ Copy of their incorporating documents
- ❖ Proof of HST number
- ❖ Copy of all tow truck ownerships
- ❖ Annual truck inspection from a certified technician
- ❖ Copy of the companies rates sheet
- ❖ Provide adequate insurance
- ❖ Copy of all applicable leases with outside agencies (compound and/or trucks) ❖  
Any other documents deemed by the Licensing Officer

In 2019, Council enacted an updated By-law and is no longer accept applications for new Towing companies. There are currently 17 companies licensed under the By-law, 15 responsible for light to medium duty and 3 heavy companies.

Once the MLE Division has received all of the required documentation, inspected the companies compound and all of the trucks, a license can be issued and the company can be added to the rotational call list. The rotational call list is maintained by the Township but monitored by a contracted agency. All fees associated with this list are paid for by the licensed companies. Companies are required to renew their licensing on an annual basis and provide the required documentation, inspections are also completed to ensure continued compliance with the By-law.

Annual fees for the Tow Licensing are as follows and were just updated in 2019:

Company	\$325.00
Tow Truck	\$225.00
Driver	\$125.00

**Recommendation:**

To continue to enforce this By-law working with the OPP to ensure all companies operating within the Township are licensed and to revisit the licensing fees in 2021 to ensure that such fees are covering MLE staff administration time and inspection requirements.

**Sign By-law (2010-075, as amended)**

An individual wishing to install a sign must first complete a Zoning Certificate Application through the Planning Division. The applicant must identify the location of the sign in reference to boundary lot lines and the purpose (advertisement) to ensure it complies with the permitted use under the Zoning By-law. Once Planning has approved the application, the applicant will then proceed with the Sign Permit Application through the MLEO Division. As part of the application process the applicant will provide their information and any contractor's information that is involved in the installation of the structure, a diagram outlining the location of the sign, the dimensions and the advertisement. If the proposal complies with the By-law, a permit will be issued along with a compliance checklist so that the applicant is made aware of the restrictions pertaining to the By-law. Once the project is complete, the applicant will contact MLE to set up the required final inspection, once the inspection is completed MLE will close the file. If the project does not meet the requirements of the By-law, staff will be required to set up a re-inspection date once the matter has been addressed. The MLE Division has the option of charging a \$75.00 for all re-inspection.

The Sign By-law has proven to be effective over the years, allowing staff to address illegal signage along Highway 11. Staff have worked with the property owners and were able to clean up the illegal signs and give the general appearance along Highway 11 an uplift. The Sign By-law has also put a stop to the large trailer signs throughout the Township.

The fee for the entire process is \$150.00. Only 5 sign permits were issued in 2019, which has been average for the last few years.

**Recommendation:**

It is the MLE Division's intention to repeal the current By-law and provide an updated Sign By-law in 2021. The current By-law was enacted in 2010 and requires updating.

Some of the provisions that staff may consider including are:

- Waiving the application fee for a new business establishment for their first sign application.
- Provisions requiring a business that is no longer operating to remove all advertising
- To enhance the permit process by removing the requirement for a Zoning Certificate. MLEO staff can contact Planning, if required, to ensure compliance with the Township's Zoning By-law.
- Include a refundable deposit to ensure the applicant notifies staff when the project is complete and a final inspection can be conducted.

### **Pool Fence By-law (2009-099)**

An individual wishing to install a pool must first complete a zoning certificate application through the Planning Division. The applicant must identify the location of the pool in reference to lot boundary lines to ensure it complies with the Zoning By-law. Once Planning has approved the application, the applicant will then proceed with the Pool/Fence Permit Application through the MLEO Division. As part of the application process the applicant will provide their information and any contractors involved, a diagram outlining the location of the pool, the dimensions and setbacks from specific features. If the proposal complies with the By-law a permit will be issued along with a compliance checklist so that the applicant is made aware of the restrictions pertaining to the By-law. Once the project is complete, the applicant will contact the MLEO Division to set up the required final inspection, staff will complete an inspection report and close the file if the project complies. If the project does not meet the requirements of the By-law, staff will be required to set up a re-inspection date once the matter has been addressed. The MLE Division has the option of charging a \$75.00 for all re-inspection.

Though the Pool/Fence By-law provides for some liability for the Township, this By-law is vital for the safety of the residents. It ensures all the proper steps are taken to ensure the pool is not located on a septic bed and most importantly the requirement for fencing around the pool so that access is restricted.

The fee for the entire process is \$150.00. In 2019, the Township issued 50 pool fence permits, and this number continues to climb each year.

### **Recommendation:**

To repeal the current By-law and bring forward an updated By-law that includes the following updates:

- By bringing forward an amendment to include a provision within the By-law for fencing so that all constructed fencing is done on the applicant's property.
- To ensure the applicant follows up with staff for the final inspection, add in a required refundable deposit fee to be returned after the final inspection by the Township.



- To increase the fee of a permit to \$200.00 to ensure the administration cost and final inspection are covered accordingly.

### **Site Alteration By-law (2016-056, as amended)**

The Site Alteration By-law was enacted in 2016, at this time there were concerns with the amount of fill being drawn in to the Township without any sort of regulations or restrictions. Concerns ranged from the quality of soil, significant grade alterations, drainage patterns being altered, Township roads being damaged as a result of heavy truck traffic, noise from the trucks dumping and backing into the site and dust/mud debris from trucks entering and leaving the site.

With the enactment of By-law 2016-056, an individual wishing to remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any other form of site alteration on land within the Township is required to obtain a permit prior to the commencement of such project.

Within the application process, the applicant is required to obtain the following documents to support the proposal:

- ❖ Completed application
- ❖ Pay associated fee
- ❖ Pay associated security fees
- ❖ Conservation Authority comments (where applicable)
- ❖ Insurance
- ❖ Site Alteration Plan including existing and proposed grades
- ❖ Silt and Sediment Plan
- ❖ Description of the fill being dumped
- ❖ Certified Tree report (if applicable)
- ❖ Soil testing protocol
- ❖ Source site assessment by a Qualified Person
- ❖ Traffic report (Haul routes)
- ❖ Signed Road Agreement and associated security fee
- ❖ Method for tracking the delivery of soil
- ❖ Road Maintenance program (Dust and mud control)
- ❖ Site Alteration Agreement for projects over 1000 cubic metres
- ❖ Projects over 1000 cubic metres are to be registered on title
- ❖ Approval for projects over 1000 cubic metres must come from Council

Since the enactment of this By-law staff have issued three permits, one for a residential lot to receive soil to raise the lot up and the other two were issued to Resorts for the construction of ponds. Quite often during the process, the applicant will request to meet with staff to discuss the process. The applicant will begin to obtain some of the required documents, retain an engineer to complete the required studies to find out that the process is very onerous and expensive. In some cases the applicant has exceeded

\$10,000 in fees associated with the proposal just to find out that the Road Agreement securities are too prohibitive and restrict the applicant from moving forward. Township staff have invested significant time in consultation meetings, site visits, reports and discussions with outside agency just to have the proposal abandoned and staff time associated with the review is not recouped.

**Large scale Site Alteration Projects**

As indicated, the Site Alteration By-law requires a great deal of expertise to ensure that the process is adhered to. If the Township has an applicant successfully complete a proposal for the dumping of over 1000 cubic metres, the Township would be required to retain a Qualified Person to carefully monitor the project to ensure compliance. Soil analysis reports, assessment of the grades, proper drainage patterns and silt and sediment protection are few areas that require technical expertise that is not typically in the scope of a MLEO. Placing this onus on the MLE Division could result in the Township being liable for an inexperienced decision.

**Current fees are identified below:**

<b>Fees</b>	<b>Application</b>	<b>Per Cubic Metres</b>
Fill less than 1000 cubic metres	\$500.00	\$.50 Fill
greater than 1000 cubic metres	\$750.00	\$.50 Permit
Extension		
Fill less than 1000 cubic metres	\$250.00	
Fill greater than 1000 cubic metres	\$375.00	
Securities		
Fill less than 1000 cubic metres	\$5000.00	
Fill greater than 1000 cubic metres	\$.50 per cubic metre of fill	

For all individuals that fail to obtain a permit prior to commencement of their project, the application fee is double.

**Recommendations:**

Option #1

To prohibit large scale commercial fill projects and only allow fill to be drawn in from the surrounding areas within the County of Simcoe. Smaller scale projects would still be permitted and required to obtain a permit prior to doing so. Going this route may provide a challenge for some developments that require a large amount of fill to prepare a site.

## Option #2

To continue with the current legislation but transfer administration responsibilities over to the Manager of Development Engineering so that the review process is completed by an individual with the required expertise and knowledge to properly make decisions on the proposal.

Council direction is required on their preferred option (Option 1 or 2) as a go forward for updated language to be included in a By-law amendment.

To amend the By-law to include the following:

- An increase in permit fees and introduction of fees for preliminary meetings with staff and conducting of site visits/inspections.
- Introduce a process similar to that of Development Services where a public meeting is held so that all affected neighbors are given a chance to provide comments in relation to the proposal.

## **Kennel Licensing (2011-176)**

In 2011, MLEO staff updated the licensing by-law to recognize the different types of kennels (breeding and boarding) and to provide provisions specific to each kennel operating within the Township. As per By-law No. 2011-177, all Kennels are required to be licensed on an annual basis. Each license is valid for 12 months from the approval date. Staff ensure that the kennel inspections are spread out throughout the year so that staff are not completing two kennel inspections within the same day in effort to control/minimize the spread of any possible disease or infection.

Prior to the expiry of the kennel license the MLEO Division will send out a reminder notice to the owners notifying them of the requirements and that an inspection of the kennel is required. The kennel owner will complete the annual application, provide a copy of all vaccination records (breeding kennels), copy of their insurance and proof of participation in events/races (Sled dog Kennels). MLEO staff will complete the inspection of the operation looking to ensure there are no deficiencies with the facility that would possibly cause harm to a dog and to ensure that all dogs are in good health. During the inspection, MLEO staff may seek information on the following; amounts and kinds of food used, daily exercise, management of feces and disposal site, number of litters over the past year, if they have received any complaints from neighbors in relation to barking and any issues with diseases and/or injuries.

Any individual wishing to open a new kennel facility must first be approved with a Site Specific Zoning through the Planning Department to ensure that all set backs are met in relation to buildings prior to applying for a kennel license.

There are currently 15 kennels operating within the Township. The fees are as follows:

New Application	\$400.00
Renewal Application	\$150.00

The Kennel By-law ensures that the required set backs are met to avoid disruptions from barking dogs and neighboring properties, it also allows staff to ensure that owners are complying with the By-law on an annual basis.

### **Recommendations:**

Just recently it was suggested during one of the kennel inspections that we possibly look at amending the fee structure for the kennels. Should a kennel only be housing eight dogs or less consideration be given to paying a different kennel fee than someone housing fifty dogs. MLE staff will look into restructuring the fee schedule for the Kennel By-law for 2021.

### **Fireworks By-law (2012- 067, Vending Licensing/Discharge Permits)**

The By-law was enacted in 2012, at the time the Township's Fire and Emergency Services had requested that the Township regulate both the sale of fireworks and provide for a permit process for anyone wanting to discharge both consumer and display fireworks.

Anyone wishing to sell fireworks must first apply to the MLEO Division and provide the following documentation:

Completed application

List of fireworks being offered for sale

Written permission from the property owner

Proof of insurance for the sale of fireworks

Once all of the paperwork is submitted both the MLEO division and a representative from the Fire and Emergency Services Department will complete an inspection of the facility. To comply with the By-law staff are looking for the following;

- All fireworks offered for sale are authorized explosives as published by the Explosives Branch of the Department of Natural Resources
- All items are all displayed in accordance with Explosives Act
- Fireworks are not displayed as a self-serve item, and
- Storage and handling of fireworks is in compliance with the Explosives Act, and
- Schedule "E" of the By-law or a similar notice is posted to warn individuals of the regulations related to By-law No. 2012-067.

Individuals wishing to discharge Display or Consumer fireworks must first apply for a permit prior to discharging. To obtain a permit an individual must complete the appropriate application and submit the following:

## **Consumer**

A site plan outlining the proposed discharge direction, buildings/structures and any overhead obstructions. As well, details related to the nature of the event, scheduled time of the discharge and details on the type, size and number of fireworks to be used.

## **Display**

Only a person whom holds a valid certificate issued by the Explosives Regulatory Division of the Natural Resources Canada may be permitted to discharge display fireworks. Applicants must provide a detailed site plan map showing the proposed firing direction, fall-out zone, spectator viewing area, separation distances, positioning of ramps and mortars, significant ground features, public right of ways, buildings and/or structures, overhead obstructions, parking areas and any other features as required by the Township. MLEO staff also require the following:

- Approximate timing of the discharge
- Attendance estimates, crowd control measures,
- Emergency procedures,
- Firing procedures
- Details on the type, size and number of fireworks being discharged □ Proof of valid insurance.

For the Display events, both MLEO and the Fire Department inspect the site to ensure compliance.

The current fees are:

Vendor	\$300.00 annually
Consumer	\$50.00 per event
Display	\$150.00 per event

Currently the MLEO Division licenses two vendors and in 2019 issued approximately 6 Display and 3 Consumer firework permits. The use of fireworks continues to grow. Throughout the summer months, MLE staff receive concerns related to their use in residential areas.

The use of fireworks without the required permits is something that is very difficult for staff to enforce as fireworks are generally set off after-hours when MLEO staff are not on duty and during the dark hours. A large percentage of the complaints come in without an exact address for staff to follow up on during regular business hours.

## **Recommendations:**

In 2021, review and bring forward updates to the current fees associated with the Fireworks By-law and review the Fireworks By-laws in surrounding municipalities to

ensure consistency with fees, process and procedures related the licensing of vendors and permits for the discharge of fireworks.

### **Refreshment Stand By-law (2015-212)**

With the increase in large scale special events throughout the municipality, MLE staff updated the Refreshment Stand By-law so that individuals wanting to operate a stand which is used for the storage or preparation of food or drinks intended for immediate consumption by the public would require a license.

For stands to be licensed with the Township the following is required:

- Completed application
- Applicable fee
- Approved Health inspection report
- Technical Standards and Safety Authority approval
- Valid insurance
- Approved propane inspection
- Written permission from the property owner
- Site plan drawing outlining the location
- Approval from the Ministry of Transportation (if applicable)
- Approval from the County of Simcoe (if applicable)

Once an individual has satisfied the By-law requirements staff will then complete an inspection of the stand to ensure compliance with the By-law. Staff will look at the appliances, suppression system, fire extinguishers and the overall cleanliness of the unit to ensure compliance with the By-law and the Fire Code. Typically both MLEO and a representative from the Fire Department will complete the inspections.

The fees for a license are as follows:

Class	Year	Temporary	Two Day
Chip Truck	\$300	\$200	\$100
Mobile Catering	\$450	n/a	n/a
Hot Dog Cart	\$300	\$200	\$100
Ice Cream Cart	\$300	\$200	\$100
Mobile Ice Cream	\$450	n/a	n/a
Other	\$300	\$200	\$100

Licensing Refreshment stands ensures that the individual is operating the stand as per industry standards, appliances are up to code and being operated as required. Refreshments are being stored as required and the overall condition of the unit is suitable for food preparation. It also ensures that agencies such as the Health Unit are

properly notified to ensure the required inspection is completed prior to licensing the unit.

The Township licensed 97 stands in 2017, 46 in 2018 and 57 in 2019. These numbers all depend on how many large scale events take place throughout the licensing year.

**Recommendation:**

That MLE staff continue to regulate, license and inspect refreshment stands throughout the Township. Further, MLE staff review the current legislation in 2021 to ensure alignment with outside agencies legislation and provide a review of the current fees for Council's consideration.

**Canine Control (2018-005)**

As previously indicated, prior to 2010 the OSPCA was contracted by the Township to provide enforcement for any canine related matter. In 2010, the MLE Division took over the enforcement but continued to contract out the pound services to OSPCA. In 2016, the Division tendered out the pound services contract by reaching out to all licensed kennels within the Township, Heartland Kennel was the successful licensed kennel and agreed to a 5 year contract term. It is staff's intent to re-negotiate a contract extension with Heartland Kennel in 2021 as the first term has come and gone without any issues, dogs are well taken care of, and the facility is always clean and ready for staff.

The Canine Control By-law is enforced both proactively and reactively. The By-law establishes provisions for individuals that fail to license their dogs, have more than the allowable three dogs, allow their dog to run at large, fail to pick up and dispose of excrement and allow the dog to bark excessively.

The Canine Control By-law was updated in 2018 and introduced new fees in relation to dog tags, the additional fee date was moved from the beginning of March to the end of March. The purchasing of dog tags moved to an online process and the By-law introduced a life time tag. The life time tag means that once purchased, the dog will keep the same tag and number moving forward and that the owner will renew the tag each year. Dog tag numbers have been on the decline over the past several years and it is the intent of MLE staff to ensure these numbers increase over the next few years as people become aware of the online option and its convenience.

Below is a breakdown of the current dog tag fees and tags sold over the past three years:

**Dog Licensing Fees**

- For one (1) dog (male or female) \$25.00
  - For one (1) dog (spayed or neutered) \$20.00
- For one (1) dog (spayed or neutered and micro-chipped) \$15.00
  - Replacement dog tag \$5.00

- For one (1) dangerous dog \$200.00

\*\* An additional \$15.00 shall apply to every dog license purchased after March 1<sup>st</sup>. The additional fee shall not apply to new residents for the year in which they move into the Township or for new dogs, per household, acquired after March 1<sup>st</sup> in the year that the dog was acquired.

### **Canine Tag Count**

2017	1700
2018	1649
2019	1582

The By-law also provides MLEO's with options for dealing with aggressive dogs, within the By-law there is a section on Dangerous Dogs, when a dog attacks and punctures the skin of a person the MLE Division can issue an Order to Muzzle placing restrictions on that animal in an effort to ensure it doesn't happen again. The only down side to utilizing this method is the restrictions only apply within the Township. Whereas any restrictions set under the Dog Owners' Liability Act are province wide.

Having MLE staff monitor and enforce the Canine By-law provides for improved response time for complaints, more proactive patrols throughout the Township and an increased presence with residents educating them on the legislation.

### **Recommendations:**

Some considerations moving forward that could be implemented are:

- Increasing tag fees for households with a second and third dog in their household.
- Standardizing the conditions of an exemption request for allowing more than three dogs per household, introduce a fee and specific terms/guidelines for the dog owners and Council when considering each exemption request in an attempt to provide a more consistent approach making it easier for staff to track.

### **Dog Owners' Liability Act**

This is a provincial act available for staff to address concerns related to aggressive dogs and dogs that attack a person or other domestic animals. Within the Act it identifies that the owner(s) of a dog is liable for damages resulting from a bite or attack by the dog on a person or domestic animal. Proceedings may take place when one of the following incidents occur:

- The dog has bitten or attacked a person or domestic animal;
- The dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or



- The owner did not exercise reasonable precautions to prevent the dog from,
  - Biting or attacking a person or domestic animal
  - Behaving in a manner that poses a menace to the safety of persons or domestic animals.

Proceedings are initiated when MLEO staff file an information and/or a statement with the courts. The information is the charging document and from that the officer can utilize it for a fine and/or a probation order. The probation order is used to recover any cost associated with the incident. Typically costs are associated with medical costs for the individual or vet costs for the domestic animal. The statement is filed so that the MLE officer has the ability to place orders or seek destruction of the dog. This all depends on the severity of the incident and whether this dog has had a previous history related to a bite or acting aggressive.

Some of the orders we typically seek are:

- Have all necessary vaccination records up to date and maintained
- Care and control of a person of minimum age of 16 years of age with sufficient stature to restrain when outside the owners/keepers dwelling. The leash shall be no longer the six (6) feet and strong enough to control the dog.
- While outside the owners/keepers' dwelling, the dog shall be restrained by means of a muzzle
- Post warning signs on the property so that such signs are visible from the front of the dwelling.
- The dog shall be kept in the side or rear yard of the owner/keeper's property and shall be on a leash or in an enclosed area. Such leash or enclosed area shall be of sufficient strength and size to prevent the dog from escaping or breaking the leash.
- Periodic inspections from the MLEO to ensure compliance with the order.

DOLA matters typically take two or more court sessions to complete, the charging officer at the first appearance can ask the Justice to issue an Interim Order on the dog to prevent any further issues while the proceedings are going on. Prior to the completion of the matter the officer will then prepare final orders for the courts to approve, if there are costs being recovered there will be probation order placed on the individual until all costs are recovered.

Having the MLE Division look after aggressive dogs and dog bites allows for proper and continued follow up to ensure compliance with an order. It also provides Township staff with key information so that when attending an address they will have the ability to take precautions so that they are prepared prior to entering onto the property. This information would not be easily accessible if another agency enforced this Act.

**Recommendation:**

MLE staff should continue to provide the enforcement services related to DOLA, as it ensures that the required follow up can be conducted and be closely monitored. It also provides the ability for awareness by all Township staff when attending a private property with a previous history related to DOLA.

### **Noise By-law (2012-167, as amended)**

In 2009, the Noise By-law only addressed the following within the By-law:

“Noise means shouting, singing, use of offensive language or any unusual noise likely to disturb the inhabitants limited to:

Noise created by any live music, radio, television, public address system, sound equipment, loud speaker or similar device or any musical or sound producing instrument of whatever kind, when such device or instrument is played or operated at such volume as to annoy or disturb the peace, quiet, comfort and repose of any individual in the neighborhood. One key issue that was found with this provision was it did not establish a time limit, meaning it was enforceable 24 hours a day when staff were contacted. Staff began getting complaints and responding to concerns related to lawn mowers and construction tools operating during the day.

In 2012, MLE staff updated the By-law to include and prohibit noises during specific hours so that MLE staff were not responding to noise concerns that at the time seemed to be the result of neighbour disputes. The by-law update also included the opportunity for an individual to apply for a noise exemption from the time limits, this exemption is typically used when a resident is hosting an event within a residential area and requests an exemption from those time restrictions. It has also been used for construction companies so that they can perform their duties during the night within a residential area without the traffic interruptions. Other updates included:

- persistent noise made from a domestic pet (barking);
- noise made by yelling, shouting, hooting, singing or other boisterous activity after 11:00 pm and prior to 6:00 am the following day;
- the operation of any construction equipment without an effective exhaust or intake muffling device;
- noise caused by the erection, demolition or repair of a building or by construction or construction equipment working upon a site within 500 feet of an occupied dwelling unit on any day between the hours 10:00 p.m. and 6:00 a.m. the next day;
- noise or sound created between the hours of 11:00 pm and 7:00 am the following day by any radio.....

### **After-hours Complaints**

The current Noise By-law is reactive only, MLE staff must receive a complaint prior to investigating any noise matter. In 2015, MLE staff began to respond to noise complaints after hours (outside of regular business hours). Typically, responding to residential concerns related to music and/or yelling after the 11:00 pm prohibition. If required, MLE staff will call the OPP for assistance but depending on OPP's availability officers are not always able to attend and assist MLEO staff. When MLE staff are attending these type of calls, it is important to note that they are typically late at night and require addressing a large number of individuals that have possibly been consuming alcohol or drugs raising safety concerns for staff to attend alone. Because of these concerns, a lone worker protocol was established with a contracted company so that anytime MLE staff are out after hours and are responding to after hours calls they can initiate the lone worker and have the contracted company monitor the individual. With the lone worker protocol, the officer is required to call the monitoring centre prior to entering onto the private property or engaging an individual. MLE staff provide the operator with the details of the call and it is then the responsibility of the MLE officer to check back in every 15 minutes with the operator. If the MLE officer does not call back in that 15 minute window, the operator will attempt to call the officer, if the operator is not successful in getting a hold of the officer the operator will then call the CMLEO and follow up with the OPP to perform a check call of the address.

In the fall of 2019 an additional MLEO was hired providing the Division with the option of providing joint after hours duties for MLE staff safety. However even with this additional staff member, given the nature of these complaints it continues to be staff's position that a response by the OPP to these after hours calls would be more appropriate based on the charges that can be laid. The OPP also have the required resources and training to deal with someone acting aggressively or intoxicated in public. As a Municipal Law Enforcement Officer, staff do not have use of force training, nor the ability to detain someone, or the tools necessary to assist in a physical altercation. The OPP would be in a position to respond to all complaints after-hours through provisions of the Criminal Code and/or the Township's Noise By-law. The OPP are staffed 24/7, have the resources to request for additional staff when required and can attend locations within the Township much more efficiently.

The Noise By-law has been a pressing issue over the past several years as the Township has seen an increase in the number of large scale special events, growing concerns with residential dwellings being rented out as short term rentals, and an increase in calls for MLEO staff to attend gatherings in residential areas.

### **Noise Exemption Request**

Under the current Noise By-law the exemption request is required for an individual whom is seeking to produce and/or create noise beyond the permitted time. The MLE Division handle requests for 1 month or less in duration. All requests over 1 month (i.e. Road Construction) in duration are required to go to Council for approval. The applicant is required to complete the application, pay the required fee, provide written permission

from the land owner and provide a detailed description of the event. This description may include depending on the size of the event, a plan for parking of vehicles, number of guests and the location of any temporary structures.

The current fee for an exemption request is \$50.00.

### **Recommendations:**

Increase the fee for the exemption request to \$100.00 given the staff time required for this process.

### **(After-hours):**

#### **Option # 1**

With amalgamation of the OPP Detachments in Orillia and Barrie, the MLE Division feel that the Township should take the opportunity to seek an agreement and/or contract with the OPP to enforce after-hours noise concerns. The idea would be that OPP respond to residential occurrences and MLE staff would continue to respond to noise concerns related to special events.

#### **Option # 2**

To continue to address residential noise concerns but cease having MLE staff responding after-hours. The complainant can provide the appropriate evidence for the MLE officer to follow up the next day. Most municipalities that have issues related to noise only respond during staffed hours as an example, if staff are on duty until 1:00 am they would respond during this time and all concerns that come in beyond their shift are addressed the next day.

Council direction is required on their preferred option (Option 1 or 2) as a go forward for updated language to be included in a By-law amendment.

### **Recommendations (Special Events):**

One area of the By-law that requires attention in 2021 is addressing the large scale events where live music is being performed, currently this is addressed within the Special Events By-law but MLEO staff believe it is more appropriate to be addressed within the Noise By-law. Some of the options staff have reviewed are:

1. Setting a dBA levels for specific properties/events. This would require all staff to have specific training related to use of sound monitoring equipment and the basic understanding of dBA levels. This would also require staff to be on duty for scheduled events so that dBA level can be monitored to ensure compliance.

2. Another option would be to enhance the exemption request process to include requests for events of this nature. The applicant could request the exemption which would be brought forward at a Council meeting for discussion and a decision. Each event where noise/sound will emit beyond the special event property boundary and possibly causing a disturbance would require a by-law exemption approval. Currently, there are several properties within the Township that host events where either sound/noise is being produced and/or reproduced. This option may or may not include setting limits for dBA's and/or a curfew and would require staff to have specific training related to the use of sound equipment and a basic understanding of dBA levels.
3. Similar to past practice, the Township can require a Memorandum of Understanding to be agreed upon and within the agreement establish required dBA limits with curfew times. Again this way would require that all MLEO staff be trained in dBA limits and have the basic knowledge of such.

Council direction is required on their preferred option (Option 1, 2 or 3) as a go forward for updated language to be included in a By-law amendment.

### **Parking By-law (2012-168)**

Over the past several years the Parking by-law continues to be amended as Township staff receive concerns in relation to parking issues and safety concerns that are raised. The Parking By-law is enforced both on a reactive and proactive basis. Through the winter months, MLEO staff are out attempting to assist Operations staff by ensuring vehicles are not parked so as to interfere with winter road maintenance. If a plow has to alter its course as a result of a vehicle parked, the vehicle operator could receive a fine.

Through late spring into the early fall, MLEO staff are actively enforcing the permit parking at the parks and boat launches, looking after the two pay and display machines and collecting funds from the three parking vaults.

The Parking By-law provides individuals with the following options when paying a parking infraction issued from the Township of Oro-Medonte:

1. Pay the early voluntary payment within 7 days from the issuance date.
2. Pay the set fine within 15 days from the issuance date.
3. Elect to take the matter to trial contesting the issuing officer's evidence.

### **Notice of Impounding Conviction**

If one the of the above options is not chosen within 15 days from the issuance date, the MLEO Division is required to send out a notice to the registered vehicle owner. MLEO staff will utilize the Ministry of Transportation's Authorized Requestors Information Services to obtain the registered owners information. The registered vehicle owner will

get a Notice of Impending Conviction, this notice gives the owner an additional 22 days from the date the notice was mailed out to pay the outstanding set fine.

### **Certificate Requesting Conviction**

For a parking infraction the remains outstanding, prior to the 75<sup>th</sup> day from the date of issuance of the parking infraction MLEO staff must send a Certificate Requesting Conviction to the Provincial Court Office. At this point a conviction will be registered against the vehicle owner. The vehicle owner will receive one more letter from the Provincial Offences Office, the Notice of Fine and Due Date will have additional court cost that will be required to pay. If the infraction remains outstanding, the fine amount will be sent to the Ministry of Transportation for plate denial. The registered owner will not be able to purchase an updated validation sticker for the license plate until such outstanding fine is paid.

### **Court**

When an individual elects to challenge the infraction they are required to complete Option # 3 on the reverse side of the parking infraction notice. Once received, MLEO staff are required to obtain a Certified Plate Registrant by date label with current address from the Ministry of Transportation's Authorized Requestors Information Services website. The label will be mailed out to the MLEO Division and filed with the courts for a future day in court.

### **Recommendations:**

As the Township continues to grow so will the demand for more parking enforcement and the need to amend the By-law. One area that may increase productivity is having a Township wide ban on street parking during the winter months similar to what other local municipalities have done (Springwater, Innisfil, Bradford West Gwillimbury, New Tecumseth and Tay). Putting a ban in place would restrict everyone from parking on the roads during specific hours that are suitable for the Operation Department to maintain the roads (12 am-7 am, 2am-7am, 3am-12pm). Currently, the legislation speaks to when the plow alters its course, meaning the plow must go around the vehicle prior to an infraction being issued. A prohibition with specific times when vehicles cannot park on the road would allow MLEO staff to proactively enforce the restriction and would further decrease the amount of traffic interference during maintenance operations. This may further decrease areas that are not maintained due to traffic. Implementing such prohibition would require adequate signage to ensure residents and visitors are well informed. The current legislation in relation to maintenance operations can be very confusing for individuals, trying to speculate whether the plows are going out if they are parked on the road and the potential for a parking infraction.

With the increase in popularity of Lake Simcoe activities and the issue this creates on our roadways through the winter months, similar to municipalities to the south the

Township should also consider looking to consider more parking areas bordering the Lake within the Township. These lots would provide for the parking of vehicles and get them off of the roads during the winter months. The parking areas would also be used in the summer for boaters. A fee could be charged year round to recoup costs for their maintenance.

### **Property Standards (2018-016)**

In 2018 the Province downloaded Property Standards responsibilities to municipalities. For the Township of Oro-Medonte, the option was to either draft a By-law under the Building Code Act or do nothing and be required to enforce the Residential Tenancies Act for any landlord/tenant dispute.

In February of 2018 Council enacted By-law No. 2018-012 under the Building Code Act. The By-law consists of provisions requiring homeowners to keep their lands free of debris, refuse, garbage, derelict vehicles/boats, land must be properly drained and free of standing water. All structures must be sound and free from any hazards, maintained to ensure all building/structures are finished and their appearance is upheld. The Property Standards By-law also speaks to long grass/weeds must be maintained, any dead, decayed or damaged trees that pose a threat have to be removed and that general maintenance of the grounds be kept up and suitable.

The second part of the By-law addresses landlord/tenant disputes and provides a tenant with legislation to assist in the event that deficiencies are not being addresses by the landlord in a timely fashion. If a scenario of this nature was to arise, the tenant would complete the Tenant Complaint Maintenance Standards Form. The form requires that the tenant provide the MLEO division with formal proof that the landlord has been given appropriate time to address the issue prior to the Township conducting the necessary inspection.

As per the Building Code, the Township is required to appoint staff as Property Standards Officers. Through the Ontario Association of Property Standards Officers, MLEO staff can become certified Property Standards Officers. For an officer to be certified they must complete 3 parts, all one week in length and at the end of each part the individual must successfully pass an exam.

### **Property Standards Committee**

Another requirement is the establishment of the Property Standards Committee. The committee is subject to the Terms of Reference approved By Council within By-law No. 2019-029. The Committee is represented by five residents from within the Township and will serve on 2018-2022 term. The Committee will only be called upon if the owner is issued an order and elects to appeal the order. When an appeal is received, a Notice of a Hearing will be sent out to all parties involved including the committee with the time and date of the hearing, disclosure/receipt of documents will be given to the parties and

committee members. Similar to court proceedings the witnesses will provide evidence and have the ability to cross examine the evidence presented. The Committee must then decide whether to confirm, modify or quash the order or the Committee can extend the time for complying with the order.

## **Enforcement**

The enforcement of the Property Standards By-law is done reactively, meaning a complaint must be received in writing prior to an officer completing the inspection. When an officer is completing an inspection under the By-law, the officer is required to identify themselves to the occupant and provide reasoning for the visit. An inspection will be conducted taking photos of all the deficiencies. Once the inspection is complete the photos will be printed off with a time stamp to ensure the date and location are identified.

The officer has two options after the inspection:

### **Option #1**

Issue a Notice of Contravention, allowing the owner a reasonable amount of time to comply with the requirements of the By-law. By going this route it provides the Officer and the property owner the ability to work with each other in an attempt to achieve compliance.

### **Option #2**

Issue an Order, the order outlines what is required to achieve compliance within a specific timeframe. When issuing an order pursuant to the Building Code, the property owner has the option of appealing the order to the Property Standards Committee.

The MLEO division strives to ensure that all individuals are treated fairly and that staff attempt to work with the individuals to gain compliance prior to moving ahead with the order.

## **Recommendations:**

With the introduction of the Property Standards By-law, the MLE Division repealed the Clean and Clear By-law as the Property Standards By-law covered the legislation within the Clean and Clear By-law. Staff have found that having a Clean and Clear By-law was beneficial in dealing with some of the minor property concerns and will bring forward a draft By-law in 2021.

## **Zoning By-law (97-95)**



From time to time MLEO staff are asked to attend and complete an inspection of a property for the Planning division to ensure compliance with the Zoning By-law.

Over the last few years MLEO staff have experienced a significant increase in zoning matters related to land use issues. From new buildings being constructed and not complying with the Zoning By-law to businesses being operated on lands not properly zoned.

Planning matters can be very involved for all staff, they may require multiple inspections in an attempt to get a better understanding of the current use and back and forth discussion with property owners and Township staff. In some cases these inspections have to be done afterhours and may require multiple staff to assist in the inspection, for example a property zoned Agriculture/Rural has organized a small music festival over the course of the weekend, the property will have parking and camping available. For MLEO staff to be able to follow up and obtain the essential information to prove a contravention has occurred, staff must make the required scheduling adjustments to attend the event(s) as it is happening.

Land use in the Township of Oro-Medonte has changed significantly in the past few years with large portions of agriculture land not necessary being utilized for your typical cash crop or livestock farm but more geared towards specific specialized uses. Some of these uses are directly related to the agriculture industry and some that are not.

With some of the more recent changes in relation to Cannabis use in Canada, the Township is now dealing with new concerns related to noise, odour and light pollution, issues that we have not experienced in the past with your typical farm operation. MLEO staff have been working with several outside agencies and other municipalities in attempt to become more familiar with the legislation and the options for both the residents and Township staff.

Over the last two years MLEO staff have also seen a significant increase in Short Term Rental (STR) properties within the Township. STR's are operating in several different zones throughout the Township. With the current legislation and this specific use it is very difficult for staff to enforce. Without a specific complaint MLEO staff cannot just walk onto the property or enter a dwelling or the rear yard and address an issue related to the use.

### **Recommendations:**

With the increase in zoning matters staff would like to explore options for some additional training so that staff have a better understanding of the Planning Act and its process for enforcement purposes.

### **ATV By-law (2019-079)**

Prior to 2018 the ATV By-law went through a series of temporary By-laws to slowly introduce the use of ATV's on Township roads. The By-law started out with permitting certain section around Lake Simcoe for ATV's to travel from a specific parking spot to the lake for the purpose of ice fishing. Over the next few years the By-law continued to evolve, permitted more roads to be travelled in and around Lake Simcoe for the purpose of ice fishing. In 2018, Council opened the By-law up further to allow ATV's to travel on more road within the Township and no longer just around Lake Simcoe. In September of 2019, Council enacted By-law No. 2019-079. The By-law permits the use of ATV's and ORV's on a good portion of Township roads within the Township.

Enforcement of the new legislation is predominately done by the Ontario Provincial Police as the MLEO's do not have the ability to pull over an ATV or ORV. Some of the areas that MLEO staff will be enforcing this new By-law will be Parkland areas and the Rail Trail, now that an AT/ORV can easily access these areas, staff will be proactively enforcing these provisions.

### **Road Occupancy By-law (2017-063)**

With the introduction of the Road Occupancy By-law, MLEO staff will assist the Operation Department in the event that an individual/company fails to get an approved permit. MLEO staff will often attend the area of concern, speak to the crew and advise them of the required permit, at this time MLEO staff will ensure the individual/company are advised to stop until such permit is approved. Depending on the company MLEO staff may have to follow up with a head office to ensure all parties have been made aware of the issue. All permit applications are reviewed and approved through the Operations Department.

With the addition of a new MLEO position it is our intent to be proactive with the By-law, MLEO staff may look into drafting short form wording for the current by-law to assist in the enforcement.

### **Recommendations:**

That staff bring forward set fines for Council's consideration to assist staff with the enforcement of the Road Occupancy By-law.

### **Entrance By-law (2017-076)**

Similar to the Road Occupancy By-law, MLEO staff will typically only address entrances that have been identified by the Operations Department as problematic or a permit has not been issued. In the past MLEO staff have provided a formal letter to the land owner asking that they comply with the By-law within a certain time frame or MLEO staff will seek laying a charge and further remove the illegal entrance at the expense of the

registered property owner. This is another By-law that MLEO staff can provide more support with the addition of a new staff member.

### **Recommendations:**

That staff bring forward set fines for Council's consideration to assist staff with the enforcement of the Entrance Permit By-law.

### **Open Air Burning By-law (2019-046)**

Fire Services introduced an Open Air Burning By-law in 2019, the by-law requires all individuals to obtain a permit through Fire Services prior to any open air burning. Currently, the process for residents is free of charge. If an individual wishes to have a small fire they are required to obtain a permit prior to doing so.

As we move through 2020 the MLEO Division will continue to support Fire Services with the By-law. For the most part this By-law requires that staff be on duty outside the regular business hours for adequate enforcement as most bonfire issues arise afterhours.

### **Recommendations:**

The MLEO Division will work with Fire Services to draft short form wordings to assist both Fire and By-law with the enforcement. Such short form wordings can be established prior to the spring of 2021 to assist with enforcement.

### **Parkland By-law (2016-017)**

The Parkland By-law regulates and provides legislation for all Township owned parks, boat launches, trail systems and Township owned lands. MLEO staff are proactively enforcing the By-law throughout the year. From Victoria Day through till Labour Day weekend MLEO's spend a large part of the day monitoring the parks, ensuring that the provisions of the By-law are being adhered to.

Some of the key areas that staff monitor are:

- The use of barbeques, individuals are only permitted to utilize a portable table top barbeque with 16.4 ounces propane tank.
- The use of charcoal, up until 2016 charcoal as permitted but due to the liability of the hot coals being left behind it was in the best interest to prohibit such use.
- Use of un-opened road allowance for ATV's/ORV's and dirt bikes.
- Dock or mooring a boat for longer than the two hour limit.
- Littering/dumping

- Dogs in the park, both Shanty Bay Wharf and Bayview Memorial prohibit such □  
The use of recreational vehicles in Bayview throughout the year.

### **Recommendations:**

One area that does not get a lot of attention is the Township's Railtrail, through the summer months staff receive complaints related to dogs at large and the use of motorized vehicles on the trail. Staff in the past have removed the bollards and used a vehicle to patrol sections of the trail but have concerns related to the safety of pedestrians or other motorized vehicles travelling within the same section. Last summer staff proposed that we utilize bicycles to increase presence and enforcement along the trail in the summer months. For 2021, staff would like to conduct a pilot project and utilize two bicycles for patrol and at the end of the 2021 summer season report back on the results of the initiative.

### **Piling of Snow (2008-159)**

Through the winter months MLEO staff are out proactively and reactively addressing individuals and contractors whom push snow out onto the live lane of a roadway, across the road and/or onto any sidewalk. The By-law also addresses snow banks that create an obstruction for vehicular traffic. Operations staff will also provide staff with areas of concern when they come across them. Typically staff have enforced this By-law through education unless there are areas that continue to be problematic. Compliance with this by-law is relatively strong as most individuals understand the liability of pushing and leaving snow out on any Township road.

The set fine for pushing snow on municipal property is \$100.00 plus court costs.

### **Recommendation:**

To update the Piling of Snow By-law and seek an increase in fine amounts moving into the fall of 2020.

### **Prohibit Heavy Trucks (2012-180)**

The Township has specific roads within the Township that prohibit heavy truck traffic in an attempt to minimize damage to the roads surface. The Highway Traffic Act does provide for an exemption if the heavy truck is doing a direct delivery to a property with no other access options. MLEO staff occasionally get concerns related to truck operating on the prohibited roads. Typically, trucks will try and avoid areas where traffic is delayed and will from time to time take one of the prohibited roads in an attempt to save time.

Currently the following roads are prohibited to heavy trucks:

Highway	From	To
Line 2 N.	50/51 Sd.	Mt. St. Louis Rd. W.
Line 2 S.	S. of Bay St.	End of Line 2 S. at Lake Simcoe
Line 3 N.	Hwy. 11	Old Barrie Rd. W.
Line 5 N.	Hwy. 11	Old Barrie Rd. W.
Line 9 N.	Hwy. 11	Old Barrie Rd. E.
Line 11 N.	Hwy. 11	Old Barrie Rd. E.
Line 12 N.	Hwy. 11	Old Barrie Rd. E.
Line 13 N.	Hwy. 11	Old Barrie Rd. E.
Line 14 N.	Hwy. 11	Old Barrie Rd. E.
Line 15 N.	Hwy. 12	Bass Lake Sd. E.

For MLEO staff to be able to enforce the prohibited areas signage must be clearly posted at both ends of the road and all intersections to ensure that heavy truck operators are aware of the prohibition. MLEO staff do not have the power to pull a vehicle over but can follow up with a company, if known, and warn the company or lay charges for reoccurring issues.

The fine for a heavy truck found to be operating on one of the above listed roads is \$300.00 plus court costs.

**Recommendation:**

To work with Operations staff and ensure adequate signage is posted to allow for the enforcement of the By-law.

**Reduced Load Periods (2012-086)**

All Township roads fall under this By-law except for the designated haul route on Line 7 North from Bass Lake Sideroad to Highway 11 and 50/51 Sideroad from Line 1 North to Line 2 North. From the 1<sup>st</sup> day of March through till the 30<sup>th</sup> day of April no commercial motor vehicles or trailers, other than a public vehicle shall be operated or drawn upon any designated highway where the weight upon an axle exceeds 5,000 kilograms. There are exceptions that allow transportation of liquid or gaseous heating fuel, livestock feed, live poultry, transportation of milk, fire apparatus, vehicles operated by or on behalf of a municipality transporting waste or public utility emergency vehicles.

This By-law is enforced by the Ministry of Transportation as they have the resources to weigh the vehicle and ensure the weight of such vehicle meets the requirement of the By-law. Every year MLEO staff do get complaints about trucks running with potential full loads and will warn the company/operator of the restriction. If the company continues to operate in contravention of the By-law the Ministry of Transportation is requested for assistance.

### **Special Event By-law (2015-123)**

In 2015, Council enacted a Special Events By-law that regulated larger events and required event organizers to obtain a permit prior to hosting an event. Currently, the Bylaw requires that the CMLEO consult with the event organizer to ensure that the maximum level of audible sound is appropriate and a maximum level is agreed upon. There must be a minimum of four points of reception for MLEO staff to measure sound from to ensure compliance. All special events with attendance over 10,000 or more people per day and where live music/amplified sound is produced must get approval through Council prior to the event.

What MLEO staff have found over the past few years is that measuring sound from the boundary lines of the event grounds can be challenging. This method allows for several variables to become factors when trying to set limits that can be complied with from all points of reception at any time during the event. The number one factor is the weather, wind direction always has one of the points exceeding the agreed upon levels and it does not necessarily mean the organizers have increased the stage volume. Also relating to weather, in the evening when we experience moisture in the air during the summer days, the moisture will act as a ceiling and will trap the sound/noise, not allow it to travel up but instead out towards the boundary, also making it seem like the stage levels have been increased. Other factors with boundary measurements include traffic, both vehicles and airplanes, and without being on site to observe this sound level increase staff would assume that the sound at the stage was increased. Guests in the area of the sound equipment (cheering, clapping....) may play a role in the readings. If MLEO's were to continue with boundary parameters, this would require staff to be on sight at all special events were music is being produced and/or reproduced during the entire festival.

MLEO staff in conjunction with an Acoustical Engineer have established sound limits from the front of house (mixing board). We have seen the front house in the past be positioned so that it is anywhere from 75' to 125' from the stage. The front of house controls the sound emanating from the stage and is able to ensure that the dBA levels are adequate from this location. Establishing dBA levels from this location removes most of the variables as discussed above. It also allows the event organizer the opportunity to closely monitor the levels for compliance from that location. One areas of concern that enforcement staff have experienced is being able to access the front of house during the event, it is typically surrounded by guest and difficult to get to. In the past we have been able to gain remote access to the monitor and have had real time

measurements come up on portable devices so that staff do not have to fight through the crowd to observe the levels.

### **Recommendations:**

To remove the sound provisions from the Special Events By-law and amend the Noise By-law to reflect the large-scale events through consultations with event organizers to implement new legislation as we move into the spring of 2021.

### **Implementation of a Nuisance By-law**

At its meeting on July 17, 2019 staff provided a report (DS2019-091) outlining options for a Nuisance By-law based on legislation already implemented in other municipalities.

The following examples were provided:

#### ***City of Guelph By-law No. 2013-19557***

Nuisance Party is defined as, “means a gathering on Premise which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring:

- a) Public disorderly conduct;
- b) Public drunkenness or public intoxication ;
- c) Unlawful sale, furnishing or distribution of alcoholic beverages or controlled or illegal substances;
- d) The deposit of refuse on public or private property;
- e) Damage to or destruction of public or private property;
- f) Pedestrian traffic, vehicular traffic or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- g) Unreasonable noise, including loud music, shouting, that is of such a volume or nature that it is likely to disturb the inhabitants of the City;
- h) Unlawful open burning or fireworks;
- i) Public disturbance, including a pool brawl or violence; or
- j) Outdoor public urination or defecation;

### **Regulations**

No person shall sponsor, conduct, continue, host, create, cause, permit or attend a Nuisance Party.

No person who, individually or jointly with others, is an owner, occupant, tenant or who otherwise has rightful possession of or is in possessory control of any Premises, shall cause or permit a Nuisance Party on said Premises.

Upon the order of the Chief of Police or the Executive Director, every person who is sponsoring, conducting continuing, hosting, creating causing, permitting or attending a Nuisance Party on specified Premised shall cease such sponsoring, conducting, continuing, hosting, creating, causing permitting or attending of such Nuisance Party, and every person not residing on such Premises shall leave such Premises.

### ***City of Kingston By-law No. 2018-53***

Nuisance Party is defined as “means a gathering on Premises which, by reason of the conduct of any one or more of the person(s) in attendance, is characterized by any one or more of the following elements:

- a) Public intoxication
- b) The unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances.
- c) The unauthorized deposits of refuse on public or private property;
- d) Damage to public or private property;
- e) The obstruction of vehicular or pedestrian traffic, or interference with the ability to provide emergency services;
- f) Sound that is unusual or excessive, or that is likely to be un wanted by or disturbing to persons, including b tot limited to loud music or shouting;
- g) Unauthorized open burning or the display of unauthorized fireworks; h) Public fights
- i) Outdoor public urination or defecation;
- j) Use of or entry upon a roof not intended for such occupancy.

### **Regulations**

- A social gathering shall only be declared a Nuisance Party by the Chief of Police, or his or her designate.
- Subject to the declaration of a Nuisance Party pursuant to By-law, no person shall create, cause, host, sponsor, conduct, continue, or permit a Nuisance Party.
- Subject to the declaration of a Nuisance Party pursuant to this By-law, an Officer may issue an Order directing that the Nuisance Party cease and that all Persons not residing at the premises where the Nuisance Party has been declared shall immediately leave said Premises.

### ***City of Kitchener Chapter 467 of the Municipal Code “Public Nuisance”***

Nuisance is defined as, “shall mean any action or activity that creates a disturbance to residents of the municipality and shall include activities such as spitting, defecating,



urinating, fighting, swearing, using profane or obscene language, impeding or molesting persons, obstructing the movement of persons, and damaging, defacing or vandalizing.”

## **Regulations**

- No person shall cause, create, or permit a nuisance in a public place.
- No person shall throw, drop, place or otherwise deposit garbage, paper, plastic or paper products, can rubbish or other debris on any property unless authorized by the owner or occupant of the property.
- No person shall disturb, remove or scatter collectable waste or recyclable waste after it has been placed for the waste collection without the permission of the owner of the premise where the waste was generated.
- No person shall disturb, remove or scatter any material placed in a garbage can or other receptacle for refuse or recyclables on any land owned, managed or maintained by the City.
- No person shall block interfere with or otherwise impede the passage of any pedestrian on any sidewalk or other pedestrian-way, or portion hereof without lawful excuse or authorization of either the City or the Regional Municipality of Waterloo.

### ***City of London By-law No. PH-18 “Public Nuisance”***

Nuisance Party is defined as: “means a social gathering on Premises within the Municipality and which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring on neighbouring public or private property:

- (a) Disorderly conduct;
- (b) Public drunkenness or public intoxication;
- (c) The unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- (d) The deposit of refuse on public or private property;
- (e) Damage to or destruction of public or private property;
- (f) Pedestrian traffic, vehicular traffic or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- (g) Unreasonable noise, including loud music or shouting;
- (h) Unlawful open burning or fireworks;
- (i) Public disturbances, including public brawls or public fights;
- (j) Outdoor public urination or defecation;
- (k) Use of entry upon a roof not intended for such emergency.”

## Regulations

- No person shall urinate or defecate in a public place.
- No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, Blue box, or garbage container, lawfully located on a Highway. This section shall not apply to City employees, or any person under contract with the City, acting under the City's Waste Management By-law.
- No person who, individually or jointly with others, is an owner, occupant, tenant or who otherwise has rightful possession of or possessory control of any Premises, shall allow, cause or permit a Nuisance Party on said Premises under their possession or control.

No person shall, in a Public Place, unnecessarily interfere with another person's use and enjoyment of the Public Place by using abusive or insulting language as a personal invective.

The City of London allows for the Chief of Police or the City Manager of Licensing and Municipal Law Services to issue an order to cease a Nuisance Party.

### ***The City of Brampton Public Nuisance By-law 136-2018***

Nuisance Party is defined as; "means a social gathering within the Municipality and which, by reason of the conduct of the person in attendance, results in a Public Nuisance."

Public Nuisance is defined as; " means actions occurring within the Municipal and which, by reason of the conduct of the person in attendance, results in one, or more, of the following activities:

### **Regulations** (that have not been listed in examples above)

- Loitering after having been requested by an Officer to move on;
- Screaming, spitting, yelling, shouting or using profane or abusive language or gestures;
- Participating in, or being a spectator in a fight;
- Carrying open liquor, except while on private property that is owned or occupied by the person who is carrying the liquor or an invited guest of the Owner;

- The unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- Defacing, damaging or vandalizing property, including by the use of graffiti
- Obstructing an Officer in the course of his or her duties;
- Permitting, or causing to be emitted, an excessive amount of smoke, dust or airborne particular matter, except where permitted to do so by the City;
- Any other activity or conduct that is disorderly or obnoxious;

***Town of Collingwood By-law No. 2013-021***

Nuisance is defined as; “shall mean an activity that causes an unsafe environment, affects the wellbeing of persons or the enjoyment of a public place, and shall be limited to the activities described in Section 3.0 of this By-law;

The Town of Collingwood’s prohibitions are similar to the previous examples except the Town also prohibits loitering in a public place and the marking or application of graffiti on public and private lands.

The Municipality of Chatham-Kent also has a Nuisance By-law No. 76-2015, similar to London, a Municipal Law Enforcement Officer may issue the required order to cease any Nuisance Party.

**Recommendations:**

It is staff’s recommendation that Council not seek to enact a Nuisance By-law in the Township. As discussed above regarding the Noise By-law, the majority of these provisions or regulations can or should be addressed through the OPP. In most instances, the OPP have the resources and ability to address individual(s) that may be intoxicated, disorderly or violent in nature on either private or public lands. Municipal Law staff do not have adequate training or the required equipment to be addressing these type of issues.

In reviewing Nuisance By-laws and their provisions from other jurisdictions it would appear that this type of By-law has been geared towards the urban areas to assist with student housing, night clubs and potential issues within the downtown core. As of recent, the Township have received concerns related to issues around alcohol consumption in a public places, fireworks, and indecent behavior within public parks all of which can be addressed through current legislation. Complaints surrounding gatherings on private property will be a challenge to enforce through a Nuisance By-law as it will still require a complaint (similar to the Noise By-law) to be received prior to an officer attending.

While adding an additional By-law may make sense on paper, staff would request Council to consider the following prior to enacting any new by-law:

1. Do we have the correct staff compliment in the MLEO division to enforce the bylaw;
2. Do we have the ability to schedule staff to enforce the by-law under the current staff compliment;
3. Do staff have the proper training and resources to be able to deal with an individual under the influence of alcohol/drugs; and
4. Would a by-law of this nature assist and resolve issues occurring on private property/at a private residence.

The Township has implemented a number of By-laws over the past several years that require not only MLEO staff to enforce but also require the assistance of a police agency. Consideration of a Nuisance By-law would be no different, without the assistance of OPP residents are being provided a false sense of security when a by-law of this nature is being enacted and Township staff do not have the ability to fully enforce it.

### **Current Staffing**

Currently the Municipal Law Division consists of 4 full time officers and one seasonal position. Staff are scheduled to work a 40 hour work week and are scheduled to be on duty from 7:00 am through till 9:30 pm, 7 days a week, rotating through various shifts from May till September. During the winter months, staff also respond after hours to assist with winter parking enforcement. Municipal Law staff also provide an after-hours service for Canine related occurrences and Noise complaints on a year round basis.

<b>Financial / Legal Implications / Risk Management:</b>
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If Council elects to recommend that staff implement a winter on street parking ban the Township would be required to update the signage so that individuals are made aware of the new provisions. Staff would also utilize social media to ensure that residents are made aware of the change.

If staff were to move ahead with the uniformed bike patrols of the Railtrail staff in 2021 would be required to look into purchasing or renting bikes for the summer and obtaining the appropriate uniforms and PPE to be worn during the patrols.

<b>Policies/Legislation:</b>
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Various as discussed throughout the report

**Corporate Strategic Goals:**

- Continuous Improvement

- Balanced Growth ○ Review by-laws that affect the health and viability of local businesses and residents.

<b>Consultations:</b>
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- Director, Development Services

<b>Attachments:</b>
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None

<b>Conclusion:</b>
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In looking back at the Municipal Law Enforcement Division since it was first established in 2008 there have been a significant changes and amendments to both the by-laws being enforced and type of occurrences MLEO's are required to respond to. As indicated in this report the complexity of each occurrence has increased and the demand for staff to be available to assist in additional areas continues to rise. The MLE Division continues to expand their responsibilities and are relied on more than ever both from the Provincial and Municipal level.

This report has indicated several areas that will require updates, amendments and/or repeals of by-laws. It is anticipated that the MLE Division will work closely with other staff to coordinate some of the changes and feel that these changes will benefit the Township moving forward. It is the MLE Division's goal to ensure that all staff are able to complete tasks efficiently and effectively without their safety being jeopardized. It is important to note that MLE staff do not have the tools/resources similar to that of a police officer and should not be placed in any situation were their safety is at risk.

Over the years MLE staff have responded well to the increase in responsibilities and staff continue to rise to the challenges when called upon to handle a new task. The MLE Division understands that the Township will continue to transform and grow and the need for amendments/changes to legislation may be required. MLE staff want to ensure that the following considerations are discussed by Council prior to implementing legislation whether it is a new by-law or is amending an existing By-law for the Township:

- What is the purpose of the legislation?
- Who is it going to affect?
- Is there justification for it?
- Do we have the resources/powers to properly enforce it?
- Are we relying on outside agencies to assist in the enforcement?

Over the last few years staff have at times worked outside their scope or completed extended hours in an attempt to assist the Township in resolving matters as they arise and look forward to continuing to step up when called upon. As the MLE Division moves forward, staff need to be able to focus on the matters directly related to the Division and ensure that MLEO's continue providing exceptional service to the Township and its visitors. The definitive goal of the MLEO Division is compliance. MLEO staff achieve this through the appropriate use of discretion, issuance of warnings, served correspondence, and if necessary; the charging and prosecution of offenders. It has been the goal of the Division to enhance public interaction while still maintaining a superior level of compliance throughout the Township.

The report has provided and outlined a number of significant changes over the years, some of these changes as mentioned have provided enforcement challenges for MLEO staff. A significant part of our challenges stem from the enactment of legislation that may be outside the scope of the MLEO staff. A good example is the ATV By-law, MLEO staff do not have the ability to pull over or stop a vehicle in motion, thus making it very difficult to enforce. MLEO staff can attempt to follow such vehicle but given the rural area, this is nearly impossible. Another challenge we continue to face is the enforcement of the Township's Noise By-law. As previously mentioned, MLEO only attend when a complaint is lodged, if a complaint is not lodged while the infraction is occurring it makes it difficult for staff to gather the required evidence. Without a complaint, staff cannot enter onto a private residence beyond the front door. The common perception from some residents is that we should be entering onto private property and enforcing our By-laws without the required complaint, conducting enforcement in this manner provides for potential privacy issues.

MLEO staff feel that working closer with the OPP could benefit the Township and allow for more inclusive enforcement of Township By-laws. It would also provide the Township with ability to continue to enact legislation that requires enforcement from both the Township and OPP.

Under Council's direction the MLEO division would like to engage with surrounding municipalities within the jurisdiction of the OPP to determine the levels of service provided related to the enforcement of by-laws and terms of their contract/agreement and will report back to Council prior to the end of this year.

As indicated it is the MLEO Division's intention to move forward and work towards some of the changes over the next year for Council consideration. These changes will not only assist the Division but to enhance customer service and take a step towards improving services while ensuring the safety of staff and the community. As noted above, Council's direction is also required on their preferred option for a number of proposed by-law amendments.

Respectfully submitted:

Curtis Shelswell  
Chief Municipal Law Enforcement Officer

**Approvals:**

Andria Leigh, Director, Development Services  
Robin Dunn, CAO

**Date**

August 5, 2020  
August 7, 2020