



## REPORT

To: Mayor and Council  
From: Chief Administrative Officer  
Subject: For Your Decision: Service Delivery Review - By-law Enforcement  
Date: February 26, 2024

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### Issue

Service Delivery Review - By-law Enforcement

### Facts

- According to the 2020 Asset Management Plan, the Municipality currently has an annual funding gap of \$5.6 million between what should be spent to maintain assets and what is spent. This is the equivalent of \$2,156 per household, or more than double the current annual average levy on each house. The number is considered on the lower end of reality as it does not include all asset classes. Furthermore, inflation has increased significantly since the plan was developed, especially for Municipal infrastructure.
- By July 2025, Asset Management Planning legislation requires municipalities to determine current and future levels of service, the costs associated with that level of service and a plan to fund it. The legislation will, in essence, require municipalities to "live within their own means" by setting levels that are affordable and attainable long term. Not being compliant with this requirement will affect Municipal transfer funding.
- Grant funding programs have been shifting to take into account a Municipality's strategy in closing the asset gap and current state of funding their assets (i.e. the more the Municipality is addressing the deficit, the more likely a funding is to be approved. The less a Municipality is working to close the gap, the less likely they are to be approved for funding)
- Council directed staff to undertake Service Delivery Reviews (SDR) on all Municipal services. This is an evaluation process in which a specific municipal service is systematically reviewed to determine the most appropriate way to

provide it. The SDR process focuses on setting priorities and, where possible, reducing the cost of delivery (to the Municipality) while maintaining or improving services and service levels. At times, service levels may have to be cut.

- A part of SDR process is to consider how to enhance services through greater efficiency or process changes without added costs to the Municipality. In many cases however, Council will either need to reduce costs or increase revenues (fees & charges or levy) significantly to address the infrastructure gap and plan for the future. While doing so, the increased complexity of operating services needs to be taken into account. Therefore, it is only possible to reduce costs to the level required by reducing services and/or assets that Greenstone maintains.

## **Analysis**

Please see the attached By-law Enforcement Service Delivery Review Report.

## **How does this tie to the Strategic Plan?**

### 1.0 Build Financial Capacity

To create the financial capacity to invest in capital infrastructure and equipment to meet service level expectations and statutory requirements, and to allow flexibility to enhance existing and future service delivery options.

1.1 Service Delivery Review (SDR): Council has approved the commencement of a service delivery review. The SDR will look at current and future levels of service for program delivery and asset maintenance. With the completion of each SDR, develop business plans to ensure that the services meet the strategic service level objectives of Council in a fiscally prudent manner.

## **Recommendation**

That Council of the Municipality of Greenstone approve the following:

1. **THAT** Council direct Staff to undertake a review of all regulation/enforcement related By-Laws by December 2025 to ensure they are up to date, in accordance with Provincial legislation, and do not duplicate regulations. The review should include consideration of repealing all old/non-effective By-Laws. The review should also include the general direction to attempt to focus on high priority health/safety and public nuisance items to ensure the Municipality can effectively enforce any By-Law requirements within reasonable resources.
2. **THAT** Council direct Staff to undertake a review of littering and dumping related legislation and report back to Council by June 2024 with recommendations on steps the Municipality can take to prohibit these activities.

3. **THAT** Council direct Staff to review the Terms of Reference for a Property Standards Committee for Council to consider at the March 11, 2024, meeting, and

**THAT** Council direct Staff to advertise for members of the Property Standards Committee as soon as the revised Terms of Reference have been approved by Council (currently projected to be March 25, 2024).

4. **THAT** Council direct Staff to bring a Report forward by the end of April 2024, with a proposed new Business Licensing By-Law and a Report forward by the end of June 2024 with a proposed new Licensing of Adult Entertainment Parlours By-Law.
5. **THAT** Council direct Staff to review the By-Laws regulating fireworks as part of the Fire Education and Prevention SDR due in Q4 2024.
6. **THAT** Council direct Staff to develop a Parade By-Law for Council's consideration by August 2024.
7. **THAT** Council direct Staff to bring a Report forward by the end of June 2024, with a proposed new Animal Control By-Law, including reviewing licensing requirements to ensure they are effective while also promoting compliance.
8. **THAT** Council direct staff to review licensing and enforcement related Fees and Charges to ensure they reflect the cost of the service to the Municipality. The review shall be undertaken as By-Laws are updated and should be completed no later than the Fees and Charges are set for the 2025 Budget.
9. **THAT** Council direct staff to engage a third-party to provide CBO and Inspection Services under the Building Code, including as many other building services related items as feasible, and
10. **THAT** a By-Law appointing new CBO(s) is brought forward to Council by the end of April 2024.
11. **THAT** Council direct staff to advertise for a Manager of Municipal Law Enforcement - Trainee immediately.

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<b>DATE</b>	<b>MONDAY, FEBRUARY 26, 2024</b>
<b>SUBJECT</b>	<b>SERVICE DELIVERY REVIEW – BY-LAW ENFORCEMENT</b>
<b>REPORT NO.</b>	<b>SDR-16</b>

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## RECOMMENDATION

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## SERVICE SUMMARY

SERVICE	BY-LAW ENFORCEMENT
<b>DEPARTMENT</b>	By-Law Enforcement and Permits & Licensing
<b>SUMMARY</b>	Provision of the Municipality's By-Law enforcement, Permits & Licensing including the role of Council and the Director of Protective & Planning Services
<b>MANDATORY</b>	Optional. As provided for in the Municipal Act
<b>LEGISLATION</b>	Animals for Research Act RSO 1990 Criminal Code of Canada RSC 1985 Dog Owners Liability Act RSO 1990 Environmental Protection Act RSO 1990 Highway Traffic Act RSO 1990 Line Fences Act RSO 1990 Motorized Snow Vehicles Act RSO 1990 Municipal Act RSO 1990 Planning Act RSO 1990 Police Services Act RSO 1990 Provincial Animal Welfare Services Act SO 2019 Provincial Offences Act RSO 1990 Weed Control Act RSO 1990

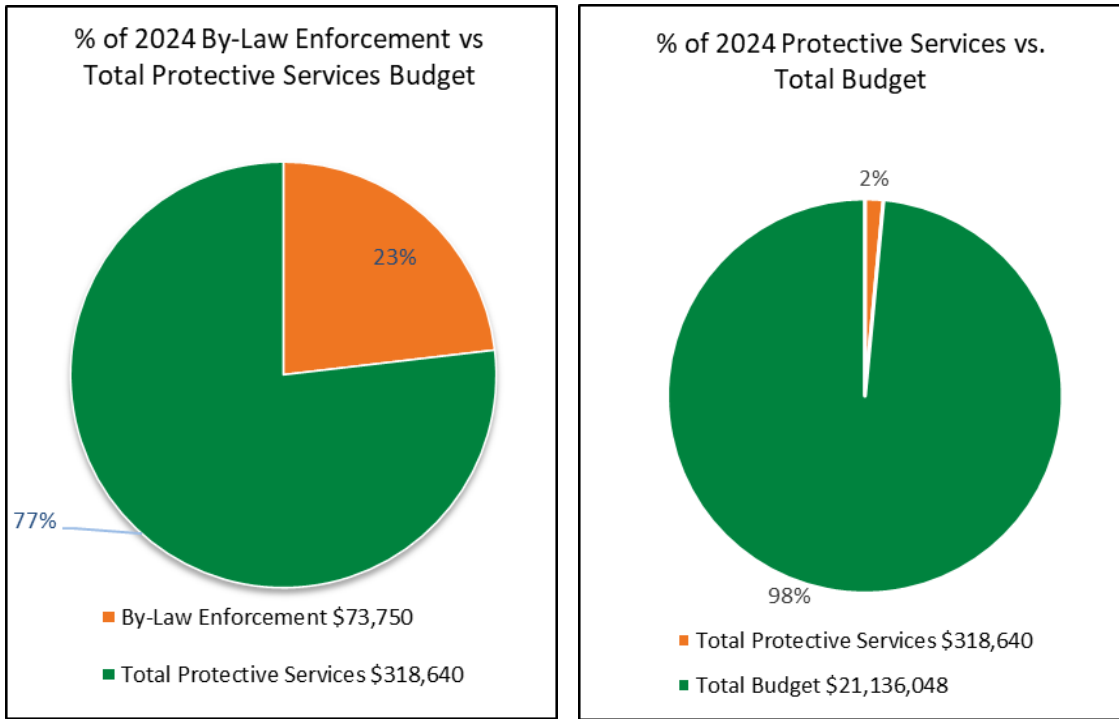
<b>BY-LAWS</b>	23-83 Enact of Property Standards By-Law for the Municipality of Greenstone 24-04 Enact a Clean Yards By-Law 01-46 Outdoor Furnaces By-Law 01-58 Building, Demolition & Building Removal By-Law 03-21 Compression Brakes By-Law 03-25 & 05-19 Poplar Lodge Park Operations By-Law 03-26 Transient Traders (Licensing) By-Law 03-28 Noise By-Law 03-81 Smoking By-Law 04-16 Regulating Display and Discharge of Fireworks 05-23 Swimming Pool Fence By-Law 05-66 Animal Control By-Law 06-21 Civic Addressing System By-Law 06-23 Naming Certain Highways Bylaw 06-24 Amend 04-16 Fireworks By-Law 08-24 Bed & Breakfast By-Law 09-48 Garbage Collection By-Law 12-37 ATV By-Law 12-43 Modular Units By-Law 12-73 Licensing By-Law 13-72 Property Standards Re-inspection Fees 15-53 Sale of Land 16-07 Fence By-Law 22-63 Sign By-Law
<b>FEES/CHARGES</b>	Attached as per Schedule K By-Law 23-86

**2024 BUDGET SUMMARY**

**2024 Expenditures:** \$73,750

**2024 Revenues:** -\$6,000

**Net Budget:** \$67,750



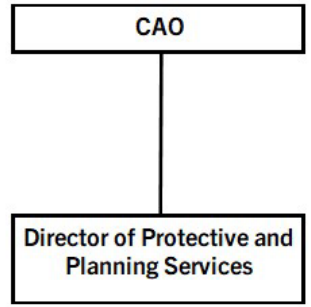
## STAFFING

Current

	Positions	Hours Worked per Year
Full Time Positions	1	500
Contract Positions		
Student		
<b>Full Time Equivalent</b>		<b>.3</b>

The By-Law Enforcement including Permits & Licensing are components of the overall Corporate Services budget. The net budget is derived from staff salaries and associated administrative support costs.

## ORGANIZATIONAL CHART



## SERVICE BACKGROUND

The Municipality has numerous By-Laws in effect. Many were enacted post amalgamation after 2001 with few being updated between 2001 and 2023. Several By-Laws that were in effect for the former towns of Geraldton, Beardmore, Longlac and Nakina prior to 2001 remain in effect as they have not been repealed as a result of an updated By-Law. Two examples are the licensing and parking bylaws.

For the purposes of this Service Delivery Review (SDR), Municipal Law Enforcement Officer may be used to refer to a Provincial Offences Officer, By-Law Officer, Peace Officer exercising Municipal duties, or any other related position acting on behalf of the Municipality in enforcing its By-Laws or other legislation/Regulations requiring enforcement by the Municipality.

None of the Municipality's By-Laws provide for short form wording for offences along with set fines, meaning "tickets" cannot be issued under Part I of the Provincial Offences Act (POA). Charges would have to be laid under Part III of the POA which is a labour intensive and lengthy process. Part II of the POA is for parking tickets.

Depending on the By-Law, there may be several options for enforcement:

1. Seek voluntary compliance through notice letter or other means
2. Through Injunction by Superior Court
3. Through Provincial Offences Act
4. Establishing an Administrative Penalty system
5. Statutory Process under the Municipal Act; Orders to discontinue work/Work Order, followed by remedial action (could be added to tax roll).
6. Statutory Process under the Building Code Act

The actual enforcement options available depends on what legislation the By-Law is enacted through, what the By-Law itself states, and what systems may or may not be established for the Municipality. Several options could be available for one By-Law. The decision to proceed under any one of the options available depends on a variety of factors including complexity and seriousness of the matter, limitation periods, cost, and burden of proof required. As a general rule, seeking voluntary compliance is the preferred first step.



## **Section 440 of Municipal Act**

This section of the Municipal Act enables the Municipality to bring an application for relief to the Ontario Superior Court of Justice. Generally, the Municipality may request any of the following;

1. An injunction stopping the person from contravening the By-Law
2. An injunction ordering the person to ensure work is done to become in compliance with the By-Law
3. Other remedies
4. Cost for legal fees

An application under Section 440 can be costly and time consuming. The Municipality's experience for relatively straightforward matters has been costs of \$30,000 to \$45,000. Depending on the complexity of the matter, costs can exceed \$100,000. It is important to note that, while Municipalities may seek cost for legal fees, Courts generally see enforcement as one of our core duties and therefore are hesitant to award all of the fees incurred in the pursuit of remedies through this method.

Actions under Section 440 are generally reserved for more complicated matters, matters that are impacted by several different By-Laws, matters where the public interest is high, and/or matters where compliance is expected to be difficult with smaller remedies through other means.

There are some benefits to applications under the limitation period for bringing an action under 440 can be longer (i.e. two years) than under the POA. As well, the burden of proof is lower than under the POA (balance of probabilities, not beyond a reasonable doubt.)

Should the Municipality proceed with a prosecution under the Provincial Offences Act, it is dealt with in the POA Courts administered by Thunder Bay Court Services operated by the City of Thunder Bay on behalf of Municipalities within the District of Thunder Bay. Hearings are held virtually. There is a monthly Court date set for Geraldton (which is where prosecutions on behalf of the Municipality would generally be heard). It is important to note that the standard of proof for matters under the POA are higher in that the Municipality is required to prove that the contravention occurred beyond a reasonable doubt. The person being prosecuted has a right to remain silent. There is also a short limitation period for prosecution under the POA of six (6) months. This can present challenges in that it may limit the Municipality's ability to seek voluntary compliance before proceeding with formal charges under the POA given our short seasons where some yard maintenance or property standards work can be undertaken (or visible).

When the Municipality establishes short form wording and set fines for certain By-Laws, it can proceed under Part I. This is the most straightforward way of proceeding, and the matter would be prosecuted by the Municipal Prosecutor in the POA Court. Proceeding under Part III would be for By-Laws where there is not short form wording with set fines (i.e. Part I is not available), or the matter is more complicated. In this case, the Municipality would likely hire its own legal counsel as Prosecutor due to the complexity of the matter. Following is further information on Part I, II and III matters.

The POA contains three distinct parts that govern the commencement of proceedings.

### **Part I – Proceeding Commenced by Certificate of Offence**

Part I prescribes proceedings commenced by way of a certificate of offence. It is often referred to as a “ticketing” process, and it is used for less serious offences, such as a noise By-Law infraction or an infraction under a smoking By-Law. While Part I offences are described as “less serious”, a more accurate description is that the provincial offences officer has elected to proceed by way of a less formal ticketing process, rather than compel the person’s attendance in court through the Part III mechanism. The maximum fine is \$1,000 and imprisonment is not a permitted penalty. Where an enforcement officer serves a person with an offence notice (ticket) the officer will file a certificate of offence with the court to commence a proceeding. The offence notice may indicate a set fine for the offence. Set fines are fixed by the Chief Justice of the Ontario Court of Justice.[64]

A defendant who receives an offence notice may do one of the following:

- If the defendant does not wish to dispute the charge, pay the set fine including any applicable charge or surcharge fixed by regulation. Payment of the fine constitutes a plea of guilty, a conviction of the defendant and imposition of a fine in the amount of a set fine.
- If the defendant does not wish to dispute the charge but wants to make “representations” as to penalty, including a reduced fine, or seek an extension of time to pay, the defendant may appear before a justice at a time and date specified in the offence notice.
- If the defendant wishes to enter a plea and have a trial of the matter, the defendant must give notice of intention to appear in court.
- If the defendant takes none of the above steps within 15 days of service of the offence notice, the defendant will be deemed not to dispute the charge, and if the certificate of offence is complete and regular on its face, the justice will enter a conviction in the defendant’s absence. Where a defendant wishes to enter a plea and have a trial, the clerk of the court will send notice of the date and time of trial, and the process governing trials and sentencing found in Part IV of the Act applies.

## **Part II – Proceeding Commenced by Parking Infraction Notice**

Part II sets out the procedure for commencing a parking infraction proceeding. It is very similar to the Part I process, except that Part II applies exclusively to parking offences which are primarily created by municipal By-Laws. An enforcement officer will serve a parking infraction notice either personally or by affixing it to a conspicuous place on the vehicle. Set fines for the parking infraction will be indicated on the parking infraction notice and the defendant must, within 15 days, choose to pay the fine or request a trial. The amount of a set fine for a By-Law parking infraction may be established by the Chief Justice of the Ontario Court of Justice (or this authority may be delegated to the Regional Senior Justice).

Where a defendant requests a trial, a proceeding may be commenced by filing the certificate of parking infraction with the court along with proof of ownership of the vehicle by the defendant. A defendant who does not pay the set fine or request a trial may be convicted in default, although provision is made to “re-open” a conviction in circumstances where a defendant establishes that he did not receive the parking infraction notice. Where a municipality has entered into an agreement with the Attorney General, the municipality will collect and retain fines under Part II.

## **Part III – Proceeding Commenced by Information**

The procedure in Part III is for offences that must be brought before a justice for resolution; they cannot be resolved through the payment of a set fine. The decision whether to prosecute under Part I or Part III often rests with the police officer or provincial offences officer. That decision will depend upon the nature of the offence and the public interest that may demand higher penalties. For example, offences under the Environmental Protection Act that carry potential fines of up to \$50,000 on a first conviction and \$100,000 on subsequent convictions would be brought under Part III.

The decision to charge under Part III may also depend on the circumstances or consequences of the commission of the offence. For example, an employer may be charged under the Dog Owners Liability Act for a failure to prevent their dog running at large and served with a Part I offence notice. However, if the failure to prevent their dog running at large resulted in serious injury to a person, that person may be charged under the Part III procedure.

For Part III proceedings, a provincial offences officer (which is defined as including a police officer or By-Law officer) may serve a summons on a defendant and then subsequently attend before a justice to swear an information; or the information may be sworn before the justice with service of the summons occurring afterwards. In addition to a provincial offences officer, any person may lay an information that alleges the offence under oath before a justice. The justice may issue a summons directed at the defendant setting out briefly the offences in respect of which the defendant has been charged and requiring the defendant to appear in court on a specified date and time. Instead of a

summons to compel the defendant's appearance in court, the justice may issue an arrest warrant for the defendant, where authorized by statute and where the justice is satisfied on reasonable and probable grounds that it is necessary in the public interest to do so. Service of a "ticket" or offence notice does not commence a Part III proceeding; all Part III proceedings are commenced by swearing of the information before a justice. In these respects, the procedure for commencing a Part III proceeding is more akin to commencing a criminal proceeding.

With respect to sentencing, the \$1,000 fine maximum applicable to Part I offences does not apply under Part III, and imprisonment is a sentencing option.

The wait time for a Part I or Part III ticket to be heard in front of a Judge or Justice of the Peace is from 4 to 6 months. All cases are heard in Thunder Bay as court is no longer held in the Geraldton Ward.

### **Administrative Monetary Penalty System (AMPS)**

Many communities are establishing a system of Administrative Monetary Penalty System (AMPS) to enforce parking By-Laws and other municipal By-Laws.

The Administrative Monetary Penalty System (AMPS) is a municipal alternative to the provincial court system that administers and adjudicates By-Law offenses. The AMPS program of enforcement transfers parking and By-Law disputes from the courtroom to the municipality, which is more efficient.

If one receives a penalty notice, they must choose one of the following options by the due date on the penalty notice. An administrative fee is payable if the fine goes into default and the information may be provided to a credit bureau or added to their municipal taxes.

- Pay the penalty notice, or
- Submit a Request for a Screening Review to dispute a penalty notice on or before the date on which the Administrative Penalty is due and payable. The Screening Review is held in front of a Screening Officer who may affirm, cancel, or vary a penalty.
- The person may then request a review of a case with a Hearing Officer who may after a hearing, affirm, cancel, or vary the penalty or provide an extension for the period payable.
- The Hearing Officer's decision is final.
- One then has a final option of bringing the matter before the Superior Court of Justice.

## By-Laws

By-Laws enacted by local governments reflect community values and standards. Those values and standards are not uniform across the province. Rather, they vary based on each jurisdiction's history, location, size and the political direction set by its governing Council or board. For example, a historically rural community with a strong industrial base may have very different noise bylaws from those in a suburban, primarily residential community.

These values and standards are not static as they evolve over time as a community changes – for example, transitioning from rural to urban, or away from or toward an economy based on primary industries. Changes in the composition of communities over time mean that bylaws and enforcement practices need to evolve as well to respond to the inevitable conflicts that arise in the “interface” areas between different types of land uses and competing priorities.

Most By-Law enforcement services are structured in one of the following ways:

- General By-Law Enforcement – where the By-Law enforcement officer is responsible for many different By-Laws, such as parking, animal control, building and construction, licensing, noise, zoning, business regulations. Specialized trades inspection is still conducted by skilled trades inspectors.
- General By-Law Enforcement Without Animal Control – where officers enforce various regulations, but do not conduct animal control, which is assigned to specialized animal control officers or to an outside agency such as the SPCA.
- Stratified or Diversified By-Law Enforcement – where different tasks within By-Law enforcement are handled by different classes of employees. This model is employed in larger cities.

Today, all By-Law enforcement officers employed in Canada are de facto peace officers for the purpose of enforcing municipal By-Laws. The definition of *peace officer* under section 2 of the Criminal Code includes By-Law officers as “other person(s) employed for the preservation of maintenance of the public peace or for the service or execution of civil process”. As such, while engaged in the execution of their duties, By-Law officers are peace officers, independent of whether they are sworn or unsworn constables.

Navigating the legal complexities of passing a By-Law is only the first step. In practice, a By-Law will have little value unless the municipality has the determination and the means to enforce it. Before a By-Law is passed, careful consideration of the By-Law, including its intended purpose and outcome, may be helpful. Implications of passing the By-Law may include such issues as:

- how will the By-Law affect the community?
- will it impose restrictions or hardships on particular areas or groups of people?
- will public reaction be favourable? If not, how will Council respond?

- what will it cost to administer the By-Law?
- can existing staff be expected to handle the additional responsibilities, or will more staff be required?
- is the municipality prepared to enforce the By-Law and enforce it consistently?

Municipalities are sometimes legally obligated to enforce non-Municipal legislation or Regulations. Two examples are the Building Code and the Weed Control Act.

### **Building Code**

The Municipality is responsible for enforcing the Building Code. This responsibility was covered in the Building Services By-Law. The current CBO is also the Municipal Law Enforcement Officer, is responsible for Planning, and also responsible for the sale of Municipal Lands. These split duties limit the Municipality's ability to enforce By-Laws.

### **Fire Code**

Inspection and enforcement of the Fire Code is generally undertaken by the Fire Chief and will be part of a different Service Delivery Review. However, enforcement of the Building Code (including issuing of permits, etc.) may involve the Fire Code.

### **Weed Inspector**

Council shall appoint one or more Weed Inspectors to enforce the Weed Control Act (WCA). The appointment must be by By-Law. The Clerk is to notify the Province's Chief Inspector of the name and address of the Chief Weed Inspector every year by April 1<sup>st</sup>. Failure to appoint a Weed Inspector can result in the Minister appointing a Weed Inspector for the area (likely at the Municipality's cost).

### **Municipal Enforcement Personnel**

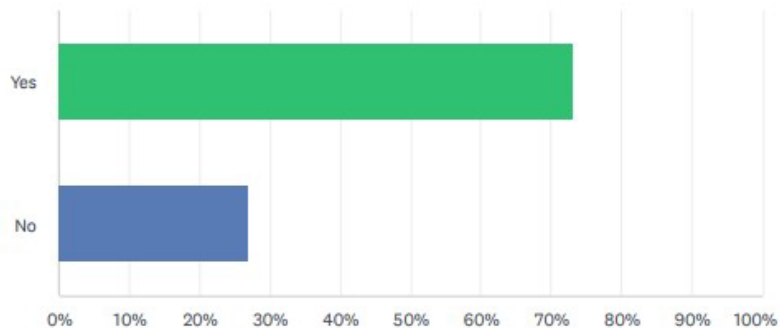
Council may decide to hire one or more By-Law enforcement officers. Council may wish to consider if these people will act only on complaints or will actively look for infractions. Taking a proactive approach would involve additional manpower. In either case, the municipality will benefit from employing a By-Law enforcement officer that has diplomacy, tact and negotiating skills because many complaints can be resolved without going to court. However, at times, it is necessary to pursue the matter further.

Seventy-three percent (73%) of the respondents to the Community Input Survey supported additional resources dedicated to By-Law enforcement.

### **Action by the public**

## Q8 Would you support additional resources being committed in order to engage a by-law control officer full-time or near full-time?

Answered: 108 Skipped: 21



ANSWER CHOICES	RESPONSES	
Yes	73.15%	79
No	26.85%	29
TOTAL		108

If a person believes that there has been a contravention of a By-Law and is dissatisfied with the level of enforcement provided by a municipality, they may wish to consider taking steps themselves to bring the alleged offender before the courts. To do so, the person would need to appear before a justice of the peace or provincial judge.

### Action by police

A Council can sometimes engage the local police force, or the Ontario Provincial Police, where it provides local police services, to enforce By-Laws. One should keep in mind that the Police have extensive responsibilities and Council may wish to consider other means of enforcement, or how the enforcement regime might interact with police services. There are additional costs involved when engaging the police to enforce By-Laws. As well, By-Law enforcement would be understandably a very low priority to Police given other responsibilities they have. The Municipality does not have a contract with the OPP to enforce By-Laws.

### Administrative penalties

Administrative penalties are a civil mechanism for promoting compliance with municipal By-Laws. Administrative penalties are imposed through administrative processes (rather than fines imposed in quasi-criminal court processes).

A municipality may establish a system of administrative penalties to help the municipality in promoting compliance with its By-Laws. The municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an

administrative penalty if the municipality is satisfied that the person has failed to comply with a By-Law of the municipality passed under the Act.

It is up to the municipality to decide the By-Laws for which to impose administrative penalties and to decide the amount of an administrative penalty that a person would be required to pay. However, the amount of an administrative penalty cannot be punitive in nature and cannot exceed the amount reasonably required to promote compliance with a By-Law.

Administrative penalties are imposed without a court hearing. However, other protections are typically put in place to help ensure that the process for imposing a penalty is fair. It would be up to municipality to set up processes and procedures for an administrative penalty system, such as putting in place a review process for a person who has received an administrative penalty.

If the municipality requires a person to pay an administrative penalty for a By-Law contravention, the person cannot be charged with an offence for the same contravention. Any administrative penalty imposed on a person constitutes a debt of that person to the municipality. An unpaid administrative penalty can be added to the tax roll for any property in the local municipality for which the owners are responsible administrative and can be collected in the same manner as taxes.

There are also particular rules for administrative penalties for By-Law contraventions related to the parking, and the standing or stopping of vehicles.

Under the structure of Administrative Penalties, when an enforcement officer issues a Penalty Notice, to a person in violation of a municipality's By-Law, the penalty becomes a balance due to the municipality. Once issued, there are two options available to the defendant which include contesting the penalty notice through a screening review with a Screening Officer who can affirm, cancel, or reduce the penalty. If unsuccessful in that process, the defendant can appeal the decision of the Screening Officer to a Hearing Officer for an additional review. The Hearing Officer can also affirm, cancel the penalty, or extend the time for payment. The decision of a Hearing Officer is considered final and binding. An AMP system provides control to the municipality with respect to the timelines associated to the life of a penalty notice as the process is no longer hindered by the Provincial Court system. The defendant can always appeal to the courts.

## **Purpose**

The Municipal Act, 2001, allows municipalities to pass By-Laws related to the health, safety, and well-being of persons in a general sense, as well as a number of specific items under the heading of 'Health, Safety and Nuisance'. Through sections 425 to 434, the Act also provides for municipalities to define offences and penalties for individuals and corporations who contravene these By-Laws.



Municipal Law Enforcement services should support public safety for all residents and visitors in the municipality, as well as promoting the safe and undisturbed enjoyment of both municipal facilities and residents' private property where feasible.

## **Activities**

Municipal Law Enforcement in Greenstone currently consists of one person, the Director of Protective and Planning Services, who is responsible for the investigation and enforcement of both the Municipality's enforcement and animal control By-Laws, as well as certain provincial statutes in addition to being the Chief Building Official, By-Law Enforcement Officer, Property Standards Officer, Land Sales, and Animal Control Officer.

With the adoption of a new Official Plan, Zoning By-Law and Property Standards By-Law and Clean Yards By-Law, the Municipal Law Enforcement area of jurisdiction has expanded from the urban areas of Beardmore, Geraldton, Nakina and Longlac to all 3,172 square kilometres of the Municipality of Greenstone.

Officers should be appointed by Council through a By-Law, under the authority of the Municipal Act and the Police Services Act. The Officers are sworn under the Provincial Offences Act. In some cases, Municipal Law Enforcement Officers could be identified by including the responsibility for enforcing certain By-Laws in their job description.

## **Proactive Enforcement**

Proactive enforcement is generally not conducted within the Municipality due to lack of resources.

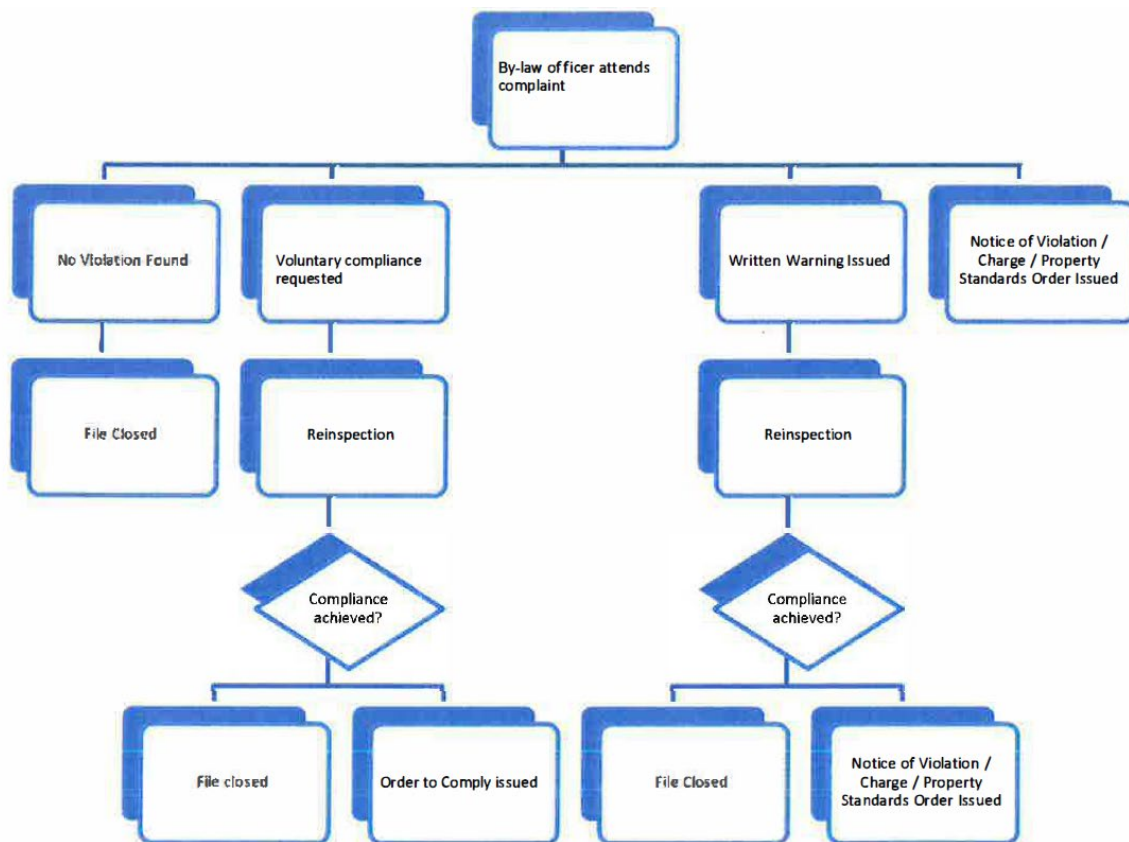
## **Reactive Enforcement**

Most of the municipality's By-Law enforcement is reactive and triggered by a public complaint. Issues related to property maintenance, animals at large, noise and nuisance and other miscellaneous matters fall into this category.

Complaints are received by phone, e-mail, and mail, as well as in person at the Administration Office located at 1800 Main Street in Geraldton Ontario. A small percentage of complaints are initially received by staff in other departments. These are then forwarded to the Director of Protective and Planning Services.

When a complaint is determined to require action by the By-Law enforcement officer, the officer conducts a preliminary investigation.

This investigation can result in no further action, a verbal or written warning, or the laying of a charge or an order, as per the flow chart below.



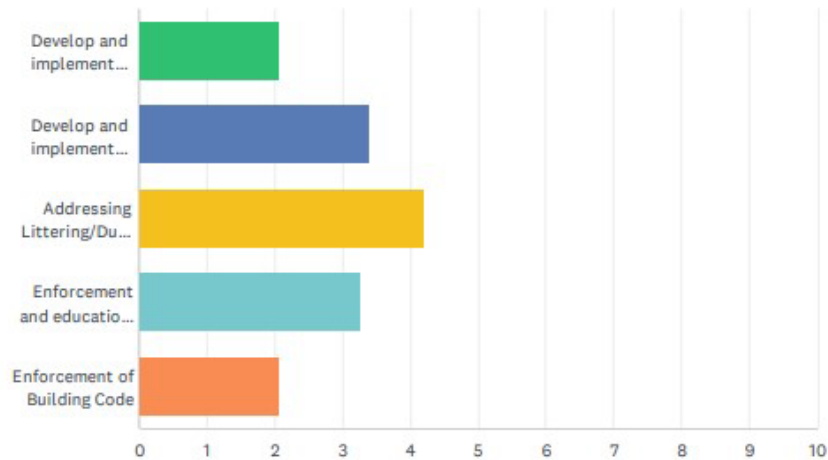
In cases where compliance cannot be achieved through negotiation or formal warnings, the officer will issue a charge or a property standards order, resulting in more formal proceedings. While voluntary compliance is the preferred route, at times, the Officer may move directly to an order or charge depending on the circumstances.

### Animal Control

- **Dogs:** The former Animal Control Officer resigned in January of 2021. The Director of Protective and Planning Services was appointed as temporary Animal Control Officer. Enforcement is carried out on a complaints-based basis. The Municipality is in the process of entering into an agreement for services with a non-profit organization.
- **Cats:** The Municipality does not have a By-Law specifically for cats. Cat control would necessitate the construction or leasing of a shelter, a vehicle, hiring of an officer and related costs. As well, cats would generally need to be trapped (in a manner differently than catching a dog), and therefore requires more constant staff time to see if a cat has been trapped or not. Cats may be domestic or feral (wild). Research has shown that a conservative amount needed for the first year of operation would be approximately \$140,000.

**Q9 With the passing of the Official Plan, the Municipality is now able to update by-laws for all Wards. The new Zoning, Property Standards, and Clean Yards By-laws have all been passed and enacted. Please rate the below in order of importance for next steps using the arrows to move choices up or down.**

Answered: 108 Skipped: 21



	1	2	3	4	5	TOTAL	SCORE
Develop and implement Parking By-law (to ensure safety of pedestrians and drivers and regulate traffic flow)	1.85% 2	12.04% 13	22.22% 24	19.44% 21	44.44% 48	108	2.07
Develop and implement Licensing By-law (to allow for proper enforcement of violations, ensure safety of residents and increase licensing fees to cost neutral)	16.67% 18	33.33% 36	28.70% 31	16.67% 18	4.63% 5	108	3.41
Addressing Littering/Dumping, including the possibility of developing a new By-law (to allow for enforcement of illegal dumping and littering)	50.00% 54	26.85% 29	14.81% 16	8.33% 9	0.00% 0	108	4.19
Enforcement and education of Property Standards related By-laws	25.93% 28	19.44% 21	20.37% 22	23.15% 25	11.11% 12	108	3.26
Enforcement of Building Code	5.56% 6	8.33% 9	13.89% 15	32.41% 35	39.81% 43	108	2.07

When asked if there were any other By-Laws people would like to see enforced, 25 out of 40 replies (62.5%) of replies identified Animal Control.

### Property Standards Orders

When a Property Standards Order is placed on a property, staff continue to work with the property owner, and tenants, to achieve compliance with the order. Should compliance not be achieved within the timeframe specified in the order, then formal charges may be issued for non-compliance, resulting in a prosecution.

Property Owners are entitled to appeal the contents of a property standards order. In these cases, staff convene a hearing of the Property Standards Committee, made up of members of the community. At the hearing, the Committee will hear from municipal

enforcement staff and representatives of the complainant, and may confirm, rescind, or amend the order. The owner, occupant or other affected person may appeal the decision of the Committee to the Superior Court within 14 days.

Property Standards Complaint History				
Year	Complaints Received	Investigation & Follow-up	Site Visits	Complaints Resolved
2018	35	51	63	32
2019	30	68	62	28
2020	38	128	67	37
2021	27	65	58	30
2022	45	95	75	46
2023	47	150	122	49

### Example of Property Standards Process

The property standards complaint is received:

- The complaint is noted, and a file is created and a search of ownership is carried out (½ hour).
- A site visit is carried out, the complaint investigated, documented and photos taken. The time taken for the site visits varies by ward. Geraldton ½ hour, Longlac 1½ hours, Beardmore 2½ hours and Nakina 2 hours.
- On return to the office the photos are prepared, location and ownership confirmed, a letter regarding voluntary compliance is prepared to which are attached copies of the photos. One package is sent via registered mail and one via regular mail (1 hour).
- The standard guidelines are that the registered letter is deemed to have been delivered within 5 business days.
- The voluntary request is to have the deficiency corrected within 2 weeks.
- Another site visit is carried out after the 2-week period has ended.
- An Order to Comply is then prepared if the problem is not resolved and is also sent out via registered mail and regular mail with the registered letter having been deemed to have been delivered within 5 business days, with the order usually stating that the outstanding problems must be rectified within 2 weeks plus a placard with the order attached must also be prepared (2 hours).
- Another site visit must be carried out to post the placard.
- A further site visit must then be carried out to determine if the order has been complied with.

Using Beardmore as an example, approximately 10½ hours are consumed if compliance is obtained via an order.

Serious cases for non-compliance may involve bringing the offending party to court. The Municipality currently has two cases involving three properties that may come before the courts. Preparing the affidavits for the two cases consumed approximately 29 hours of work. While the ultimate cost to prosecute the actions depends on how fast the matter is resolved, it can reasonably be expected to cost \$40,000 each.

By-Law Complaint History				
Year	Complaints Received	Investigation & Follow-up	Site Visits	Complaints Resolved
2018	38	34	8	36
2019	42	64	64	44
2020	69	104	58	68
2021	48	57	32	50
2022	55	62	74	54
2023	59	105	57	58

**LICENSING AND PERMITTING**

**Legislative Powers**

Sections 150 to 155 of the Municipal Act permit municipalities to impose a licencing regime on businesses within the municipality, and on business based in other jurisdictions who conduct business in the municipality, subject to some limitations for certain business types and sectors. Within these sections, municipalities are specifically allowed to prohibit businesses from operating without a licence, to impose conditions as a requirement of licencing, and to set different conditions for different classes of business.

There is no requirement for municipalities to licence businesses, nor to compile a registry of businesses within the municipality.

## Existing Licensing Models

The Municipality of Greenstone currently requires business licensing for the following:

- Bed & Breakfast
- Food Handling - restaurants, café, lunch counter, refreshments stand, food store, public hall
- Non-resident produce dealer
- Hairdressers
- Hawkers & Peddlers
- Lodging and rooming houses
- Pawn brokers
- Public halls
- Second hand goods
- Transient traders permit

Vendors are required to obtain a licence annually and are subject to the fees set out in the Fees & Charges By-Law. Inspections and enforcement are performed by the Municipal Law Enforcement Officer and may also include inspections by the fire department and/or the Thunder Bay District Health Unit.

Licensing is regulated by a variety of By-Laws within Greenstone, most of which pre-date amalgamation. One dates to the 1940's. There is no comprehensive, up to date, licensing By-Law that applies to all of Greenstone and contains information such as definitions, what is being licensed, etc.

The Municipality's legal firm is currently developing a new comprehensive business licensing By-Law for Greenstone.

The Licensing provisions of the Municipal Act were amended by Bill 130, 2006. In general terms, the Municipality of Greenstone has broad powers regarding business licensing.

License powers are set out in Section IV of the Municipal Act. Section 150 defines a business as "any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality and includes, trades and occupations, exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise, the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader, the display of samples, patterns or specimens of goods for the purpose of sale or hire."

Sections 152, 154, 155 and 156 provide guidance and limitations regarding the licensing of certain business types and sectors.

Section 151 specifies powers regarding a system of licenses. A Municipality may:

- a) prohibit the carrying on or engaging in the business without a licence;
- b) refuse to grant a licence or to revoke or suspend a licence;
- c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
- g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licences established by the municipality.

The By-Law specifies the Municipality's powers to refuse, renew, revoke or suspend a license, enter property and undertake inspections.

Administration of a licensing By-Law is done by the Municipal Law Enforcement Officer. Appeal mechanisms must be put in place.

## **PERMITS / LICENSES**

Using these two terms, activity can be easily monitored. The difference between a permit and a license is that permits are the official or legal document that is issued to administer safety issues for a specific period.

Licenses on the other hand represent permission to do or use something and they are given more generally than permits.

## Difference between Permit and License

Here is a table that highlights the major differences between permits and licenses.

Factors	License	Permits
<b>Validity Period</b>	The majority of licenses are permanent or medium term (i.e. one year).	Permits are usually temporary or limited to a specific short period of time
<b>Restrictions</b>	Licenses have few or limited restrictions.	Permits have comparatively more restrictions than licenses.
<b>Inspections</b>	Licenses do not require regular inspections (outside of annual or one-time inspections).	A permit is issued for safety measures, and regular inspections are required.
<b>Appearance</b>	The appearance of a license is permanent, usually in a card format.	Similar to a sticker, but less permanent.

### What is a Permit?

Permits are official documents that allow an individual to engage in a particular activity. It is also a legal document that one may need before starting a business. Some Permits may be required and/or issued by the Municipality. Other Permits may be required and/or issued by other orders of Government or agencies. For example, a person who wants to obtain a license to carry on a pest control business must obtain a permit for that business and, in addition, that person must also have a permit to store chemicals.

### What is a License?

A license is a legally binding contract that allows someone, or something do, own, perform an action or use a service provided that they agree to the terms. The most frequent types of licenses are driving license, software licenses and business license. All of these have terms and conditions attached to them which must be met before a license can be activated.

### Permits and Licenses for Businesses



Various types of licenses or permits may be required when operating a business.

- **Local Business License:** Even if a business is already incorporated, a partnership, or an LLC, some cities, counties or municipalities require that a municipal business licenses be obtained. This depends on the types of By-Laws in effect.
- **Federal/Provincial Licenses and Permits:** Some federal regulations require licenses and permits for certain businesses. Several federal agencies may require a specific license, permit or certificates in addition to local and provincial requirements such as an automotive service centre that sells fuel in addition to a restaurant.
- **Zoning:** Some businesses may be restricted from operating in certain areas by local zoning regulations. Home business owners also have to comply with these regulations. For example, Bed & Breakfast establishments are only permitted in residential areas.
- **Home Occupation:** a license may be needed to operate a business from a home, such as a catering business.
- **Professional/Occupational Licenses:** Some businesses require special licenses in order to obtain a business license. Depending on the community, the requirements may vary. In some localities a childcare business is required to obtain a special license. Hairdressers must also maintain their qualifications.
- **Health Permits:** may be required for certain business, such as those handling, preparing or selling food products.
- **Fire Department Permits:** A permit for non-residential fires is mandatory. The permit is usually valid for a period of 10 days.
- **Building Permit:** This permit is required if one plans to construct a new building, renovate, or make structural changes to a building or change the use of a building.

The issuing of licenses and permits can be regulated by a By-Law or municipal policy.

## KEY PERFORMANCE INDICATORS

Total Complaints Received vs Complaints Resolved - This metric looks at the effectiveness of the Municipality's programs.

Total Number of Orders to Comply Issued vs Complaints Resolved - This measure looks at the success rate for voluntary compliance.

Total Number of Part 1 Tickets Issued vs Complaints Resolved - This metric looks at the success rate for voluntary compliance.

Total Number of Business Licenses Issued - This measure looks at the increase or decrease in business activity.

## ASSET USE

The current Director works out of the main administrative office. One office space and office furniture along with IT resources are used including the IT network, printers, and desktop/laptops.

Total asset value allocation is less than \$50,000 for these items.

For vehicles, protection services has a 2014 Chevy Equinox purchased in 2013 which is used for building services, by-law enforcement, property standard issues, land sales, dog catching, and other duties as assigned. The vehicle has an estimated replacement cost of \$32,000.

## ANALYSIS

### Options:

1. Continue to complete all mandated activities in-house using existing staff
2. Hire an additional Municipal Law Enforcement Officer beyond current complement of staff
3. Review By-Laws to focus on high-priority items for enforcement while directing more staff time to Municipal Law Enforcement by outsourcing other duties currently shared by the Municipal Law Enforcement Officer. RECOMMENDED

### In-House Process and Performance:

The Director of Protective & Planning Services duties currently include:

- Chief Building Official
- Property Standards Officer
- By-Law Enforcement Officer
- Planner
- Animal Control Officer
- Lands Sales
- Other duties as assigned

There is no administrative support, which is at times challenging to meet all the requirements of each responsibility. In this regard the department could benefit from part time administrative and operational support when needed. Administrative support is expected to be provided through the change in the Executive Secretary position to the Executive Secretary/Deputy Clerk or by the Financial Administrative Assistant - Economic Development.

A Municipal Parking By-Law has been prepared and is ready for enactment. Careful thought must be given to the enforcement aspect as coverage will be expected day, nights, evenings, weekends, and holidays not to mention the time needed to process parking tickets. Given risk and public input, implementation of a new By-Law is assumed to be lower priority when compared to Property Standards related By-Laws.

While work has been undertaken in recent years to update some of the more prominent By-Laws within Greenstone, several “old” enforcement or regulatory related By-Laws on remain in place. The By-Laws may be out of date and not in accordance with current legislation. There is also the chance, especially with older By-Laws, that provincial or federal legislation or regulations conflict with a Municipal By-Law, leading to potential challenges in enforcement. Even if there was not a conflict in a legal sense, the Municipality should endeavour not to regulate an area that is already covered by other regulatory bodies or agencies.

If a Municipality has enacted a By-Law for enforcement, it must ensure appropriate resources are provided to provide reasonable enforcement of the By-Law based on the levels of service set for enforcement (the same applies to enforcement of Acts or Regulations of other orders of government the Municipality is responsible for enforcing). Based on current resource allocations for municipal law enforcement, the amount of legislation (including By-Laws) to enforce, and the time requirements for education and enforcement, the Municipality is unable to meet the standards could be expected.

**Recommendation: THAT Council direct Staff to undertake a review of all regulation/enforcement related By-Laws by December 2025 to ensure they are up to date, in accordance with Provincial legislation, and do not duplicate regulations. The review should include consideration of repealing all old/non-effective By-Laws. The review should also include the general direction to attempt to focus on high priority health/safety and public nuisance items to ensure the Municipality can effectively enforce any By-Law requirements within reasonable resources.**

Even with the proposed realignment to provide closer to an FTE of a Municipal Law Enforcement Officer, priority will still have to be given to enforcement of certain By-Laws. Throughout the SDR process, residents have overwhelmingly indicated that Property Standards are a priority to them (littering and dumping is included in this statement). Property Standards relates to both health and safety, and to nuisance. Therefore, Property Standards will be a priority in the foreseeable future for By-Law enforcement. It is recommended the Municipality review littering and dumping legislation to enhance, where possible, prevention of littering and dumping (littering and

dumping is already covered under Provincial legislation).

**Recommendation: THAT Council direct Staff to undertake a review of littering and dumping related legislation and report back to Council by June 2024 with recommendations on steps the Municipality can take to prohibit these activities.**

Council recently approved By-Law 23-83 (Property Standards By-Law). Per this By-Law, the Municipality must have a Property Standards Committee that can hear an Appeal to an Order under the Property Standards By-Law. According to the Property Standards By-Law:

“The Committee shall be composed of up to six (6) persons but no less than three (3) with a maximum of one (1) member from each ward. Employees of the Corporation or of one of its local boards are not eligible to be members of the Committee.

The term of office for the members of the Committee is four (4) years, provided that all members are authorized to serve beyond their fixed terms of office, as required, until re-appointed or replaced.

The Corporation may establish an honorarium to be paid to members of the Committee.”

The Municipality appointed a Property Standards Committee in 2019 but it was not convened. The Terms of the appointed Committee Members technically expired on December 12, 2022. A Terms of Reference for the Committee was developed and approved but should be reviewed. Training on the Property Standards By-Law should also be provided to Committee Members. It is recommended that advertising for new Committee Members take place once the Terms of Reference of the Committee are in reviewed and determined by Council.

**Recommendation: THAT Council direct Staff to review the Terms of Reference for a Property Standards Committee for Council to consider at the March 11, 2024, meeting; and**

**THAT Council direct Staff to advertise for members of the Property Standards Committee as soon as the revised Terms of Reference have been approved by Council (currently projected to be March 25, 2024).**

While enforcement of the Building Code was rated as low by residents in the survey, its impact to residents and the Municipality is high. The Building Code helps ensure that the homes and buildings people are in are safe. Without appropriate permitting and inspections, work is undertaken that may be unsafe. This poses a physical danger to people. It also poses longer term financial risk to residents when improper construction needs to be remedied because it is failing. Insufficient enforcement of the Building Code (and appropriate documentation) leaves a significant liability for the Municipality as the Municipality can be held responsible for not exercising its Duty or Standard of Care. A

lack of enforcement of the Building Code, and specifically requiring Building Permits, also leads to lost revenue for the Municipality. Building Permits may trigger reassessments for MPAC. Work done without Building Permits leads to unfair valuations amongst property owners. For these reasons, the Municipality must also prioritize enforcement of the Building Code (Fire Code being covered by a different SDR).

## **Licensing**

Essentially, the purpose of Licensing is to ensure the Health and Safety of residents, as well as to ensure significant nuisances are addressed. This is not to say the Municipality can address all nuisances. These matters can become very expensive, both in staff time and financially. Enforcement-related By-Laws are often for the same reasons. If Council passes an enforcement related By-Law, licensing By-Law, or Permit By-Law, it is obligated to ensure that sufficient resources are available to implement the service level set out by the By-Law.

Another consideration is if the matter is already regulated by another order of Government or Agency. If Council were to pass a By-Law to enforce or regulate an activity that is already covered by another piece of legislation or regulation and to be enforced by another government or Agency, the By-Law could be void. At the very least, it would be duplicating services, leading to increased costs overall.

Our current business licensing By-Laws consists of some By-Laws that were in effect prior to amalgamation as well as By-Law 12-73, a By-Law to set Licensing Fees. It should be noted that By-Law 12-73 only sets fees and provides no other description of what is being licensed, etc. These By-Laws are out of date and ineffective. Therefore, they need to be reviewed. Municipal Legal Counsel are reviewing the licensing By-Law. A Report is expected to come back to Council by the end of April 2024 with recommendations on what to license. In this process, it is important to balance the need to regulate (Health, Safety, and Nuisance) vs. the resources required to enforce the activities being licensed. A separate By-Law on licensing of Adult Entertainment Parlours is being drafted.

**Recommendation: THAT Council direct Staff to bring a Report forward by the end of April 2024, with a proposed new Business Licensing By-Law and a Report forward by the end of June 2024 with a proposed new Licensing of Adult Entertainment Parlours By-Law.**

## **Permitting**

The Municipality currently has Permitting By-Laws for several activities, including Fireworks and Parades.

The Open-Air Burning By-Law is up to date and would be reviewed as part of the Fire Services Review.

The Fireworks By-Law needs to be updated, including to reflect changes in staffing (since the By-Law was originally passed, the Municipality hired a full-time Fire Chief). Fireworks can be a significant danger to the public and to property. They can also be a nuisance. The Fireworks By-Law should be reviewed and updated/repealed based on current goals of the Municipality, importance on health and safety, and availability of resources to enforce as part of the Fire Education and Prevention By-Law currently scheduled for Q4 2024.

**Recommendation: THAT Council direct Staff to review the By-Laws regulating fireworks as part of the Fire Education and Prevention SDR due in Q4 2024.**

The Municipality issues Permits for Parades, but there is no current By-Law governing such permits. As a result, there is no clear definition of when a Parade will be approved or requirements of the Municipality, including insurance and safety protocols to be put into effect. For example, approved Parades are not required to have traffic control in effect. Given the nature of Parades, with moving vehicles and a significant amount of people viewing the parade from the sidewalk, all entrances to the roadway should be closed to ensure the safety of parade participants and observers. Should an unauthorized vehicle enter the parade route and injure someone, the Municipality could be held liable. A Parade By-Law should be developed outlining the safety and insurance requirements to be put in place for a Parade to be authorized. Consideration will have to be given to what support the Municipality could/should provide in terms of road closures and any cost recovery for effective road closures.

**Recommendation: THAT Council direct Staff to develop a Parade By-Law for Council's consideration by August 2024.**

### **Administrative Monetary Penalties system**

Implementing and Administrative Monetary Penalties system is not being recommended at this time. The system can be time consuming to develop the process and administer. To implement the system, the Municipality would have to recruit and select a Screening Officer and a Hearing Officer (two separate positions). The Municipality would have to ensure the procedural system is fair. Specialized training would be required, and the people selected must be familiar with legal concepts such as procedural fairness and jurisdictional issues (i.e. right to entry on a property in specific circumstances). Given the need to update several By-Laws and Policies, it is not recommended that establishing an AMPS be a priority given limited resources.

### **Adjusting Service Levels:**

Certain By-Laws, including Animal Control and Licensing are scheduled to be reviewed. During these reviews, the Municipality should ensure service levels are set to balance available resources with the need from a health and safety perspective or a significant nuisance to the public perspective. In licensing, this may mean a reduction in the

number of licenses required.

## **Animal Control**

Animal Control in Greenstone is currently regulated by By-Law 05-66 as well as several Acts including the Animals for Research Act, Provincial Animal Welfare Services Act (PAWS), and the Dog Owners Liability Act.

By-Law 05-66 is out of date and needs to be reviewed. Council has already directed that a new By-Law be developed in consultation with a third-party contractor that the Municipality is in the process of engaging to assist with By-Law enforcement.

In the process of reviewing this By-Law, Council will have to further identify the expected levels of service for Animal Control. For example, when considering the costs of enforcement, the need to have knowledgeable and trained staff, and risks to the public, Council will have to determine whether to regulate various types of animals (beyond what may be in Zoning By-Laws or other legislation) including cats, rabbits, chickens, etc.

Licensing fees, requirements, and types of licenses should also be reviewed to ensure they are effective while promoting compliance with licensing requirements.

**Recommendation: THAT Council direct Staff to bring a Report forward by the end of June 2024, with a proposed new Animal Control By-Law, including reviewing licensing requirements to ensure they are effective while also promoting compliance.**

Appropriate record keeping is important to effective enforcement of By-Law infractions, as well as to mitigate Municipal liability. Administrative support through the Executive Secretary/Deputy Clerk or Financial Administrative Assistant- Economic Development should help assist in the appropriate retention of records. However, to ensure proper long-term retention and safety of records, electronic solutions should be examined. This is already being done for Building Permit related items through a move to online permitting.

### **Cost Avoidance: Operating Costs and Capital Investments:**

There is limited ability to avoid operating or capital related costs unless the number of By-Laws to be enforced are significantly reduced.

The Municipality has an obligation to ensure employees have the appropriate equipment to undertake their position effectively. This will lead to additional costs over the next two years for training, PPE, etc.

### **Enhancing and Expanding Service Levels:**

This Report recommends changes to ensure the Municipal Law Enforcement Officer is closer to an FTE position. However, this proposed change is based on status quo

enforcement service levels in terms of hours. For example, service levels are still projected to be Monday to Friday, 8:30 a.m. to 4:30 p.m., excluding Holidays. Services would also be limited during extended absences or the employees' holidays.

Should Council wish to add to service levels within each By-Law (i.e. increase enforcement or response available after hours, more pro-active driven service vs. complaints based, etc.), additional Municipal Law Enforcement Officers will be required based on the added demands. The cost per Municipal Law Enforcement Officer is expected to be approximately \$100,000 (including salary and benefits), plus capital (PPE equipment, potential vehicle), training, and increased operating costs.

By adjusting to a model where closer to an FTE is dedicated to Municipal law enforcement, the Municipality will be better equipped to respond to increased demands (based on the current service level), as well as improve education and limited pro-active enforcement where needed.

### **New Revenues:**

Licensing, permit, and other fees are not to be a "tax" or "levy" in order to generate revenue. They must not exceed what is reflective of the cost of implementing and enforcing the licensing By-Law.

In order to minimize financial impacts on the Municipality of recommendations within this Report and the Planning Report, it is recommended that Fees and Charges are reviewed to ensure full cost recovery. This would mean that, contracted out services for Building Permits, etc., would be billed to the user at the rate that the contractor charges the Municipality.

Animal control related fees will also have to be updated to reflect the cost of licenses, to ensure appropriate penalties or remedies, etc.

**Recommendation: THAT Council direct staff to review licensing and enforcement related Fees and Charges to ensure they reflect the cost of the service to the Municipality. The review shall be undertaken as By-Laws are updated but should be completed no later than the Fees and Charges are set for the 2025 Budget.**

### **Alternative Service Delivery Including Shared Services or Contracting Out:**

Shared services or contracting out have been considered as part of this SDR. Regular discussions have occurred with other Municipalities re: sharing services for a Municipal Law Enforcement Officer. However, many are facing similar challenges in terms of recruiting and retaining staff, the MLEO having multiple responsibilities, or they are already at a full workload. No Municipal Law Enforcement contractor has been able to be identified that is already working within the region. Distance is also another factor. For many By-Law enforcement related items, the ability to respond within a certain timeframe is an important factor in effective enforcement.



The Municipality is currently in the process of developing contracts to contract out Animal Control services. Council previously directed staff to engage a third party to act as CBO and undertake inspections (virtually) when the workload exceeded the availability of the Municipality's CBO. Given the challenges of recruiting CBO's and Building Inspectors province-wide, it is recommended that Council authorise Administration to engage a third-party to provide CBO and Inspection services, including as many other building services related items as feasible. A separate By-Law for Council to appoint the CBO(s) would be brought forward. All permits would be online. The Planning SDR speaks to contracting out Planning Services.

**Recommendation: THAT Council direct staff to engage a third-party to provide CBO and Inspection Services under the Building Code, including as many other building services related items as feasible; and**

**THAT a By-Law appointing new CBO(s) is brought forward to Council by the end of April 2024.**

#### **Service Structure and Staffing Realignment:**

The current level of service is being maintained by the Director of Protective & Planning Services who is the lone person in the department. There is no coverage for their absences. The service level has generally been complaint based as well. As noted, it is one thing to pass updated By-Laws to ensure effective regulations are in place. However, it is equally important to ensure sufficient resources are available to enforce the By-Laws.

By-Law enforcement can be a very time consuming and expensive process. If a complaint is received, often-times the By-Law enforcement officer must follow up physically to interview any witnesses, document infractions, and in some cases correct the item being complained about (i.e. animal control). Given Greenstone's geographic size, this means that one complaint can take half of someone's workday to respond to, just for the initial response. Then follow up is required depending on the situation. In the case of an animal, it means trying to catch the animal at large, then trying to find the owner through a variety of means including reviewing descriptions in licenses, scanning the dog for a tag, etc. An employee or agent must house, feed and care for the animal in a compliant facility, notify appropriate authorities and, after a set amount of time, transition the dog out of the Municipality's care in accordance with its By-Laws and Provincial legislation. This can include bringing the animal to Thunder Bay. Feeding and caring for the animal alone can be costly. The animals must be cared for several times a day, including after regular operating hours and on the weekends (e.g. 7 a.m., 4 p.m. and 7 p.m.).

Significant training is required for a Municipal Law Enforcement Officer (MLEO). To be able to be effective, it is important that the Officer is aware of how to take appropriate notes, is familiar with legal terminology and a wide variety of legislation. The MLEO

needs to know how to interview witnesses, write prosecution briefs, know their rights to entry (which can vary notably by legislation or By-Law), and is aware of other rights of residents and corporations. The MLEO must be familiar with the variety of remedies the Municipality can seek in any given situation, the processes to seek those remedies (which vary) and be able to exercise appropriate judgment to seek a balanced and reasonable outcome. The MLEO must also be familiar with certain legal concepts or nuances. For example, a Municipal Law Enforcement Officer must know that a ticket can be issued as part of enforcement, but not to ensure compliance (i.e. cannot issue a ticket and say if the property is cleaned up then the ticket will be removed).

Municipal Law Enforcement Officers also face risk in their position that they need to be trained and equipped for. Training on how to deal with unhappy people is important. Threats are not uncommon. For animal control, the Officer must be equipped with appropriate PPE and be trained on safe animal handling, catch poles, snares, and other animal control techniques. In animal control, the Officer is often dealing with an animal where it is not known if the animal has any number of diseases such as rabies or lime disease.

Appointing a Municipal Employee in each Ward as a Municipal Law Enforcement Officer is an option to help reduce travel time to complaints. However, given the complexity of the position, this can pose several challenges. The Municipality is already tight for staffing resources in each community. The training alone that would be required would be significant. Experience in other communities has been that, unless it is someone's regular job, errors are not irregular in documentation, tickets, etc. This results in the inability to effectively prosecute any charges that have been filed. Going forward, this may be considered for straightforward and time sensitive issues (i.e. appoint Public Works staff as an MLEO for parking infractions during winter if a parking By-Law is put into effect). Otherwise, it is not being recommended at this time.

It is clear based on the number of complaints received, distances within Greenstone, time requirements for each complaint, and the priority to Municipal Law Enforcement given by Council, that more resources are required to be directed to Municipal Law Enforcement. The current position is approximately a .3 FTE as the same person is responsible for a number of other duties as well. The hiring of a dedicated Municipal Law Enforcement Officer is recommended. In order to limit the impact on the Municipal Budget and to be as efficient as possible, the following would be implemented:

1. The position of Director of Protective and Planning Services becomes the Manager of Municipal Law Enforcement upon the retirement of the incumbent in the Director's position;
2. The Municipality immediately recruit for the Manager of Municipal Law Enforcement – Trainee in order to ensure training can occur to be able to implement education and enforcement this summer;
3. The Manager of Municipal Law Enforcement will be the Municipal Law Enforcement Officer (By-Law, Weed Control, and Provincial Offences) and also be

responsible for any non-OPP law enforcement subcontracts (i.e. animal control and building code). Furthermore, the Manager would support enforcement and/or Inspections under the Building Code as needed;

4. The current Economic Development and Communications Officer becomes the Director of Development, Communications and Economic Development.

As outlined in the Planning SDR, as many planning related items (even minor) would be contracted out. Previously, Council directed staff to engage a third-party agency to assist with Building Permits. Given challenges across Ontario in recruiting CBO's and inspectors, all Building Permit reviews, approvals and inspections would be contracted out. Fees and charges for both planning and Building Permit related items are proposed to be amended to reflect the full cost of the contracted service. Building Permit inspections would generally be undertaken remotely through video. The Manager of Municipal Law Enforcement would be expected to provide support for these inspections where required. The Manager would also be responsible for supporting and enhancing the enforcement of Building Permits (i.e. regularly looking for work being undertaken without an appropriate permit).

While the salary will be set based on an assessment of the Position Description, it is expected to be lower than the current Director of Protective and Planning Services due to reduced responsibilities. The Economic Development and Communication Officer's salary band should be reviewed once they transition to the Director of Development, Communications and Economic Development given additional responsibilities. The expectation is that these changes would effectively be cost-neutral.

The Municipality is advised it can currently take several months for short form wording/set fines to be approved by the Courts. Administration anticipates draft set fines to be presented to Council in March for the Clean Yards By-Law.

As it is expected that a new Manager of Municipal Law Enforcement will require training and new By-Laws have been passed or are in development, Administration will focus on education of the public as the first step in enforcement during the Summer of 2024. If the Municipality were able to recruit a trained Manager, it is recommended that education remain the priority for the first few months, with more active enforcement taking place later in the Summer.

Administrative Support is expected to be provided by the Financial Administrative Assistant- Economic Development or Executive Secretary/Deputy Clerk.

**Recommendation: THAT Council direct staff to advertise for a Manager of Municipal Law Enforcement - Trainee immediately.**

Other communities have property standards enforcement blitzes in the spring or summer. The Municipality does not have the resources in place to conduct such an activity. It is currently estimated that the salary will be between \$78,000-\$84,500. However, the final salary determination will be completed by a third-party review to ensure pay equity.

### **Discontinuing the Service (if applicable):**

The Municipality is legislated to provide enforcement of certain Acts such as the Building Code, Fire Code, and Weed Control Act. The Municipality must continue to enforce these Acts or Regulations.

The Municipal Act states that a Municipality **may** enact By-Laws, meaning most of the existing By-Laws could be repealed. A general repeal of Municipal regulatory By-Laws is not recommended. However, all regulatory related By-Laws should be reviewed to ensure they are current, address the top issues of health and safety, as well as items that are of a significant nuisance to residents. In this review, consideration should be given to the unique challenges faced in a Municipality the size of Greenstone, available resources, and the cost/benefit of enforcing any By-Laws. Therefore, some By-Laws or Regulations should be repealed or significantly changed (reduced) in scope to ensure resources are directed to top priorities.

## **FINANCIAL IMPACT**

### **New Revenues**

Although the SDR does not recommend new or increase fees, there is an expectation that as by-laws are reviewed, revised, or developed a cost recovery model will be developed which may increase the current fee structures in place therefore increasing overall revenue collection for various by-law enforcement activities.

### **Cost Avoidance**

Ensuring that by-laws are up to date and enforceable, and properly staffing the service to ensure compliance and enforcement may assist with mitigating long term risks to the municipality thereby reducing the potential of increase insurance premiums related to claims or future liabilities.

Schedule K  
By-law 23-86

ACTIVITY OF SERVICES

2024 Fees and  
Charges

HST Extra

**Licensing**

Bed & Breakfast	\$ 121.22	No
Food Handling: Restaurants, café, lunch counter, refreshments stand, food store, public hall	\$ 40.39	No
Food Handling: refreshment stand or refreshment vehicle	\$ 121.22	No
Non-resident produce dealer	\$ 121.22	No
Hairdressers	\$ 40.39	No
Hawkers & Peddlers Permit	\$ 582.92	No
Lodging & Rooming Houses	\$ 40.39	No
Pawn Brokers	\$ 51.92	No
Public Halls	\$ 40.39	No
Second Hand Goods	\$ 40.39	No
Transient Traders Permit	\$ 582.92	No