



ENFORCEMENT OF SUMMARY OFFENCE TICKETS

POLICY PURPOSE

- 29.1 It shall be the policy of the Municipality of the District of Shelburne to have a clear and concise policy which outlines who shall issue Summary Offence Tickets (SOT's) on behalf of the Municipality, the process for doing so, the division of responsibility for operational staff to carry out investigations versus the need for management oversight, as well as the independent review and assessment role of the Administrator.

POLICY AUTHORITY

- 29.2 Pursuant to the *Police Act* of Nova Scotia, any person employed by Municipality of the District of Shelburne and authorized as a Special Constable by Nova Scotia Department of Justice to enforce certain summary offences within the jurisdiction of the Municipality, and its neighbouring municipalities by agreement, is hereby authorized to issue Summary Offence Tickets according to this policy.
- 29.3 The investigation of any alleged violations of municipal bylaws or applicable provincial statutes and regulations shall be the responsibility of the Municipality's Bylaw Enforcement Officer, or other authorized Peace Officer legally operating within Shelburne County. The prosecution of any alleged violation of municipal bylaws shall be done by the Municipality's solicitor, or such other solicitor as authorized by the Chief Administrative Officer.

POLICY INSTIGATION

- 29.4 An investigation into an alleged violation of municipal bylaws or applicable provincial statutes shall take place, and a file opened, when a complaint is received from a member of the community. This investigation shall begin as soon as practical depending on the nature of the complaint and current availability of staff. The name of the complainant shall not be disclosed except as where required by law.

COMPLAINT INVESTIGATIONS

- 29.5 After a complaint is received and a file opened, the Municipality's Bylaw Enforcement Officer or appropriate Peace Officer shall prepare a report concerning the alleged violation including speaking with the alleged violator, complainant, and other potential witnesses, visiting the location of the alleged violation and taking photographs or video recordings, review applicable municipal and provincial legislation, as well as past history with the alleged violator or subject property.
- 29.6 The investigation shall determine if the alleged violation is contrary to municipal bylaws or provincial legislation in the opinion of the Bylaw Enforcement Officer or Peace Officer.

- 29.7 If it is determined by the Bylaw Enforcement Officer or Peace Officer that the alleged violation is not contrary to applicable municipal bylaws or provincial statutes, the Bylaw Enforcement Officer or Peace Officer shall notify the complainant of their review and the reason(s) why the complaint is not in violation of municipal or provincial laws or regulations and thereafter close the file.
- 29.8 If during an investigation the Bylaw Enforcement Officer or Peace Officer determines in their opinion that the alleged violation is contrary to a municipal bylaw or provincial statute, the applicable Officer shall speak to the alleged violator in person where possible to explain the alleged violation and what steps could be taken to come into compliance, and provide the alleged violator with a reasonable amount of time to comply based on the situation and the specific abilities of the alleged violator. This compliance time and date shall be documented in the file.
- 29.9 If during an investigation the Bylaw Enforcement Officer or Peace Officer determines in their opinion that the alleged violation is contrary to a municipal bylaw or provincial statute, and the alleged violation requires the issuance of a SOT immediately to prevent a continued violation or as a deterrent to prevent a future occurrence from this alleged violator or others, the Officer may immediately issue a SOT in a non-discriminatory and fair manner. Immediately upon the issuance of a SOT, the Officer shall notify the Chief Administrative Officer of this action, including the particulars.
- 29.10 If during an investigation of a dangerous or unsightly property complaint it is determined that the alleged violation is an immediate dangerous safety hazard, the Bylaw Enforcement Officer or Peace Officer can request that the Administrator immediately issue an Order for the property to be vacated forthwith.
- 29.11 When the documented compliance time has passed and compliance has still not been reached for properties deemed to be dangerous or unsightly, the applicable Officer shall then discuss the matter with the Administrator to seek concurrence that the Municipality has tried all reasonable efforts to bring the property or individual into compliance. If the Administrator concurs, notice shall be sent by the Officer to the property owner advising them that their property has been deemed to be dangerous or unsightly (as the case may be) and the date, time, and location where they are to appear before Municipal Council to discuss an Order for the remedy of their property's alleged violation. Such notice shall be given not less than 10 days before the date of the meeting either by personal service or by registered mail to the property owner at their last known address.

ISSUANCE OF SUMMARY OFFENCE TICKETS

- 29.12 The issuance of SOT's for alleged violation of municipal bylaws or provincial statutes shall be based on the following principles:
- a. The decision of whether to issue an SOT for a minor offence shall be the decision of the Officer. Any charges laid will only proceed where there are reasonable grounds to believe that an offence has occurred and can be proven as to the specific violator.

- b. Warnings may be issued for minor offences where the Officer deems this action is more suitable and a reasonable deterrent to future repeat violations. In deciding whether to proceed with a SOT or a warning, the Officer shall respect the principle of equal protection and benefit of the law. The decision will be made in a non-discriminatory and fair manner, which protects the public interest.
- c. The investigation of alleged offences that are deemed of a more serious nature, or for repeat offenders, shall first be discussed with the Municipality's Solicitor and Chief Administrative Officer prior to charges being laid. A decision will be reached between the parties on how to proceed in a non-discriminatory and fair manner, which protects the public interest.
- d. The Officer and Chief Administrative Officer have the final right and duty to determine whether charges will be laid, subject to legal advice, and subject to the right of the Municipal Solicitor to withdraw or stay charges, for cause, after they have been laid.

PROSECUTORIAL DISCRETION

- 29.13 In advising on the laying of charges or the staying of prosecutions, the Municipality's Solicitor will be guided by the principle that a prosecution should only go forward where there is evidence available on each essential element of the offence and the Municipality's Solicitor believes there is a reasonable chance that a conviction will result if the case proceeds to trial.
- 29.14 In the laying of charges and decisions respecting staying of prosecutions, consideration of the public interest must always be considered. In determining whether the public interest may be served, the following issues will be considered:
- a. is there sufficient risk to human life, health, property, or the environment;
 - b. any record of past compliance or non-compliance;
 - c. any relevant history;
 - d. whether the violation seems deliberate in nature, or if not deliberate, the degree of negligence or carelessness involved;
 - e. whether there has been concealment of information or any other obstruction;
 - f. whether the violation was repeated or a warning was disregarded;
 - g. whether a ticket or prosecution is likely to have a deterrent effect on this individual or others; and
 - h. whether failure to enforce the alleged violation would tend to bring the law into disrepute or disrespect.
- 29.15 If a charge is dropped for any reason, the reason(s) must be recorded in the file.

REPEAL

29.16 Dangerous or Unsightly Premises Policy adopted by the Council of the Municipality of the District of Shelburne on the 25th day of May, 2010, is hereby repealed.

THIS IS TO CERTIFY that the Council of the Municipality of the District of Shelburne duly passed the policy respecting Enforcement of Summary Offence Tickets on the 22nd day of January, 2018.

SIGNED this _____ day of _____, 2018

WARDEN

CHIEF ADMINISTRATIVE OFFICER

Approved by Council: January 22, 2018

Effective Date: January 1, 2018