

Policy: Policy Statement on the Issuance of Warning Tickets and Summary Offence Tickets

Date Originally Approved: October 30, 1998

Motion: "That on the recommendation of Council recommends that the attached Policy on the Issuance of Warning Tickets and Summary Offence Tickets adopted and the practice of issuing Warning Tickets be approved"

Motion carried.

This Policy is current as of: October 30, 1998

Municipality of the County of Colchester
Policy Statement on the Issuance of Warning Tickets and Summary Offence Tickets

1. Legislation to be Enforced

By-law Number 35, Dogs
Section 16(c)
Section 16(d)
Section 16(f)

2. Persons Involved

By-law Enforcement Officer, Chief Administrative Officer, Municipal Solicitor, R.C.M.P. Constable

3. Enforcement Principles

The investigation of an alleged violation is the responsibility of the By-law Enforcement Officer. The prosecution of charges is the responsibility of the Municipal Solicitor.

The Municipality will follow established principles in deciding whether to lay charges, which include:

The decision to lay a charge concerning a minor offence using a Summary Offence Ticket will be the decision of the By-law Enforcement Officer. The By-law Enforcement Officer will only proceed with a charge where in this opinion there are reasonable grounds to believe that an offence has occurred.

Each complaint received will be written up as a Dog Complaint Report. The By-law Enforcement Officer will try to contact the complainant, to determine the nature and specifics of the complaint. The By-law Enforcement Officer will then contact the owner of the dog(s) to discuss the alleged problem. A warning will normally be issued after the Municipality receives two further complaints, one of which must be from a separate complainant, not in the same household (In rural areas, where houses are few and far between, some discretion may be used regarding this requirement.). All Dog Complaint Reports must include the name and phone number of the complainant and the name or address of the dog owner(s). A second warning may be issued, in the event of a further complaint, after the issuance of the first ticket following the same procedure. A file will be maintained when a warning is issued and contain a copy of complaints, warnings and related correspondence. A warning ticket will be comprised of four copies, one for the offender, the file, the Chief Administrative Officer and the last to remain in the ticket book.

A maximum of two warnings may be issued concerning a minor offence where the By-law Enforcement Officer deems appropriate, prior to the issuance of a Summary Offence Ticket. In deciding whether to proceed with a warning or a ticket, the By-law Enforcement Officer will respect the principle of equal protection and benefit of the law. The decision will be made in a nondiscriminatory and fair manner which protects the public interest at large. Upon issuing a Summary Offence Ticket, the By-law Enforcement Officer shall notify the Chief Administrative Officer as well as the Councillor for the area.

The By-law Enforcement Officer may dispense with one or more preliminary steps before issuing a ticket having regard to factors relating to the gravity of the offence including those outlined in Section

4 of this Policy.

The investigation of alleged offences of a more serious nature, or which involve repeat offenders will involve the By-law Enforcement Officer and the Chief Administrative Officer and/or the Municipal Solicitor and/or a R.C.M.P. Constable. The decision whether to lay a charge will be based on sound judgement and principles of fair and equitable treatment under the law. These decisions will be reached after consultation with the Municipal Solicitor who will prosecute. Such decision shall not involve a decision based on personal matters, nor shall the members of Council be involved in the decision.

The By-law Enforcement Officer and Chief Administrative Officer have the ultimate right and duty to determine the charges to be laid, subject to advice from the Municipal Solicitor and subject to the right of the Municipal Solicitor to withdraw or stay charges, for cause, after they have been laid.

4. Prosecutorial Discretion

In advising on the laying of charges or the staying of prosecutions, the Municipal 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 Municipal Solicitor believes there is a reasonable chance that a conviction will result if the case proceeds to trial.

In laying of charges and decisions respecting staying of prosecutions, consideration of the public interest may be relevant. In determining whether the public interest may be served, the following things should be considered:

whether there is significant risk to human life, health, property or the environment;

any record of compliance;

any relevant history;

whether the violation seems deliberate in nature or, if not deliberate, the degree of negligence or carelessness involved;

whether there has been concealment of information or any other obstruction;

whether the violation was repeated or a warning was disregarded;

whether a ticket or prosecution is likely to have a deterrent effect on this individual or others;

whether failure to enforce would tend to bring the law into disrepute or disrespect.

If a charge is dropped, the reason must be recorded in the file.

5. Non Compliance with Policy Not a Defence

In the event of a prosecution for an offence, non-compliance with this Policy shall not be a Defence.