

# **TOWN OF ANNAPOLIS ROYAL POLICY**

**Title:**

**Policy on Payment in Lieu of Prosecution**

**Policy No.:**

**2004-2**

**Supersedes: N/A**

**Effective Date:** September 20, 2004

**Approval By Council Motion No.:** 10

**Purpose:**

To allow for payment in lieu of prosecution.

**Definitions:**

- (1) “applicable offence” means an offence to which this Policy applies;
- (2) “enforcement officer” means the Town’s Bylaw Enforcement Officer and members of the Town’s Police Department except when another employee of the Town is identified as the enforcement officer in respect of this Policy in the applicable Bylaw; and
- (3) “to lay a charge” means to issue a Summary Offence Ticket or to swear an information pursuant to the Summary Proceedings Act .
- (4) “Town” means Town of Annapolis Royal.

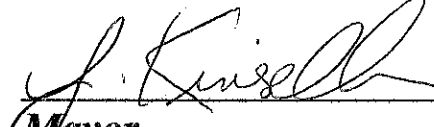
**Policy Statement:**

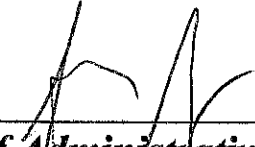
1. This Policy applies to those offences involving a breach of a Bylaw which expressly authorizes a payment in lieu of prosecution to be made in accordance with this Policy.
2. The investigation of alleged violations of applicable offences is the responsibility of the enforcement officer.
3. When the enforcement officer, on reasonable grounds, believes that an applicable offence has been committed, the officer, in lieu of or in addition to providing a warning and in lieu of laying a charge may issue a Notice of Bylaw Violation, generally in the form of the draft Notice appended to this Policy.
4. The exercise of the enforcement officer’s discretion pursuant to Section 3 shall conform with the following principles:
  - (1) The decision shall be made in a non-discriminatory, fair manner, affording to all

persons the equal protection and benefit of the law, and to the extent reasonably possible, alleged violators shall be treated similarly in similar circumstances.

- (2) Subject to any lawful resolution of Council of general application regarding enforcement practices, the decision shall not be influenced by members of Council or by political factors.
  - (3) The decision shall not be influenced by personal relationships involving the enforcement officer.
  - (4) The decision shall not be inconsistent with the principles of fundamental justice.
  - (5) The enforcement officer's knowledge of a history of prior violations by the alleged offender, including violations which were the subject of warnings or previous Notices of Bylaw Violation, the seriousness or willfulness of the violation, and the consequences of the violation or of a continued or repeated violation are factors properly considered by the enforcement officer in making the decision.
5. When issuing a Notice of Bylaw Violation, the enforcement officer shall fill in the blanks on the Notice to the best of the officer's ability.
  6. Upon issuance, or shortly thereafter, the enforcement officer shall attempt to deliver the Notice of Bylaw Violation to the alleged offender, or post it upon any real or personal property involved in the violation, or shall otherwise attempt to bring it to the attention of the alleged offender.
  7. The alleged offender shall have 14 days from the date of issuance of the Notice of Bylaw Violation in which to pay the payment in lieu of prosecution which shall be set at 50% of the minimum penalty authorized by Bylaw and identified in the Notice.
  8. Payments in lieu of prosecution shall be made by mail to Town of Annapolis Royal, PO Box 310, Annapolis Royal NS B0S 1A0; or in person at 285 St George Street, Annapolis Royal.
  9. A receipt for such payments shall be provided by municipal staff to the payor, identifying the number on the Notice of Violation, and whether the payment has been made by cash, cheque or otherwise.
  10. Notwithstanding the issuance of a receipt, the payment shall not be deemed to have been received for purposes of section 11 until cheques or credit card payments have irrevocably cleared the banking system.
  11. Upon receipt of a timely payment in lieu of prosecution in respect of a violation for which a Notice of Bylaw Violation has been issued, the alleged offender shall not be prosecuted by the Town for that violation and the payment shall operate as a Release by the Town of any charge that it might otherwise lay in respect of the violation.

12. In the event an alleged offender does not make timely payment in lieu of prosecution, the Town may lay a charge pursuant to the *Summary Proceedings Act*. The Town's Enforcement Policy shall apply in respect of the laying of the charge, and its prosecution.
13. Subject only to section 11, non-compliance by the Town with this Policy shall not constitute a defence to a charge for breach of a Bylaw.

  
\_\_\_\_\_  
**Mayor**

  
\_\_\_\_\_  
**Chief Administrative Officer**

27 Sept. 2004  
\_\_\_\_\_  
**Date**

Sept 27/04  
\_\_\_\_\_  
**Date**

#

Notice of Bylaw Violation

TAKE NOTICE THAT the Town of Annapolis Royal's Enforcement Officer has determined

that \_\_\_\_\_  
(name) (vehicle license plate # if applicable)

of \_\_\_\_\_  
(address) (vehicle make, model and year if applicable)

\_\_\_\_\_  
(City, Town or Village)

did on \_\_\_\_\_ at \_\_\_\_\_  
(date of offence) (time of offence)

commit a violation of a Bylaw of the Town of Annapolis Royal, namely, \_\_\_\_\_

\_\_\_\_\_  
(insert description of the offence)

contrary to \_\_\_\_\_ of the \_\_\_\_\_ Bylaw.  
(section #) (Insert Bylaw Title)

YOU MAY MAKE A PAYMENT OF \$ \_\_\_\_\_ WITHIN 14 DAYS OF THE DATE OF  
ISSUANCE OF THIS NOTICE IN LIEU OF BEING PROSECUTED FOR THIS  
INFRACTION. IF YOU DO NOT MAKE THIS PAYMENT YOU ARE SUBJECT TO  
PROSECUTION AND THE PENALTIES IN THE EVENT OF CONVICTION RANGE FROM  
A MINIMUM OF \$ \_\_\_\_\_ TO A MAXIMUM OF \$ \_\_\_\_\_.

PAYMENT SHOULD BE MAILED TO THE TOWN OF ANNAPOLIS ROYAL, PO BOX 310,  
ANNAPOLIS ROYAL, NS B0S 1A0 OR MAY BE MADE IN PERSON AT TOWN HALL,  
285 ST. GEORGE STREET, ANNAPOLIS ROYAL, NOVA SCOTIA.

\_\_\_\_\_  
Enforcement Officer (Print Clearly)

\_\_\_\_\_  
Date of Issuance

\_\_\_\_\_  
Enforcement Officer (SIGNATURE)