
Town of Mulgrave

Payment in Lieu of Prosecution Policy

Title:

1. This Policy is entitled the "*Payment in Lieu of Prosecution Policy*".

Interpretation

2. In this Policy:

(1) "applicable offence" means an offence to which this Policy applies;

(2) "enforcement officer" means the Town of Mulgrave By-Law Enforcement Officer except when another employee of the Town of Mulgrave is identified as the enforcement officer in respect of this Policy in the applicable By-Law; and

(3) "to lay a charge" means to issue a Summary Offence Ticket or to swear an information pursuant to the Summary Proceedings Act.

3. This Policy applies to those offences involving a breach of a By-Law which expressly authorizes a payment in lieu of prosecution to be made in accordance with this Policy.

4. The investigation of alleged violations of applicable offences is the responsibility of the enforcement officer.

5. 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 By-Law Violation*, generally in the form of the draft Notice appended to this Policy (Appendix A).

6. The exercise of the enforcement officer's discretion pursuant to Section Four [4] 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 By-*

Town of Mulgrave Policy & Procedures Manual
Payment in Lieu of Prosecution Policy

Law 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.

7. When issuing a *Notice of By-Law Violation*, the enforcement officer shall complete the Notice to the best of the officer's ability.
8. Upon issuance, or shortly thereafter, the enforcement officer shall attempt to deliver the *Notice of By-Law 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.
9. The alleged offender shall have 14 days from the date of issuance of the *Notice of By-Law Violation* in which to make the payment in lieu of prosecution authorized by By-Law and identified in the Notice.
10. Payments in lieu of prosecution shall be made by mail or in person at the Mulgrave Town Office.
11. A receipt for such payments shall be provided by municipal staff to the payer, identifying the number on the *Notice of By-law Violation*, and whether the payment has been made by cash, cheque or otherwise.
12. Notwithstanding the issuance of a receipt, the payment shall not be deemed to have been received for purposes of section [13] until cheques have irrevocably cleared the banking system.
13. Upon receipt of a timely payment in lieu of prosecution in respect of a violation for which a *Notice of By-Law Violation* has been issued, the alleged offender shall not be prosecuted by the Town of Mulgrave for that violation and the payment shall operate as a Release by the Town of Mulgrave of any charge that it might otherwise lay in respect of the violation.
14. In the event an alleged offender does not make timely payment in lieu of prosecution, the Town of Mulgrave may lay a charge pursuant to the *Summary Proceedings Act*.
15. Subject only to section [13], non-compliance by the Town of Mulgrave with this Policy shall not constitute a defence to a charge for breach of a By-Law.

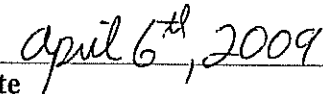
Certification for Town of Mulgrave Policy & Procedures Manual:

Date of notice to Council Members of Intent to Consider [7 Day minimum]: March 30th, 2009

Date of Passage of Current Policy: April 6th, 2009

I certify that this *Payment in Lieu of Prosecution Policy* was adopted by Council as indicated above.


Municipal Clerk


Date

Appendix A

Notice of By-law Violation:

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

That _____
(name) (vehicle license plate # if applicable)

Of _____
(address) (Vehicle made, model and year if applicable)

(address continued)

Did on _____ at _____
(date of offence) (time of offence)

Commit a violation of a By-law of the Town of Mulgrave, namely, _____

(insert description of offense)

Contrary to _____ of the _____ By-law,
(section #) (insert by-law 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 \$ _____.

PAYMENTS SHOULD BE MAILED TO:

Town of Mulgrave
P.O. Box 129
Mulgrave, Nova Scotia
B0E 2G0

OR MAY BE MADE IN PERSON AT:

Mulgrave Town Office
457 MacLeod Street
Mulgrave, Nova Scotia
B0E 2G0

Date of Issuance

Enforcement Officer (Signature)