

The Town of Yarmouth

The Land Use By-law Enforcement Policy Policy 10

PURPOSE

To establish a clear procedure for the enforcement of the Town's Land Use By-law in force within the Municipality of the Town of Yarmouth, hereafter referred to as the Town.

POLICY STATEMENT

1. The Town shall follow the procedures set out in this policy for enforcing the following:

Municipal Government Act – Schedule 16 of the Summary Offence Ticket Regulations

PART XXI – GENERAL

- (i) Refusing access to inspector exercising power granted under Act;
- (ii) Interfering with inspector exercising power granted under Act;
- (iii) Violating provision (specify) of Act or order, regulation or by-law (specify) in force in accordance with Act;
- (iv) Failing to do anything required (specify) by order, regulation or by-law (specify) in force in accordance with Act;
- (v) Permitting anything (specify) to be done in violation of Act or order, regulation or by-law (specify) in force in accordance with Act;
- (vi) Obstructing or hindering any person in performance of duties (specify) under Act or order, regulation or by-law (specify) in force in accordance with Act; and,

2. Investigation of a Land Use By-law Offense/Efforts to Achieve Compliance

The Development Officer is responsible for the investigation of all alleged violations of the Land Use By-law. Upon determination by the Development Officer that a violation has occurred, reasonable steps shall be taken to have the owner, of the lands, upon which the violation has occurred, remedy the violation.

The steps taken by the Development Officer shall include:

- (a) After a thorough inspection of the site confirming a violation, the Development Officer shall prepare and send a written Order of the violation to the owner, outlining the steps necessary to remedy the same. The Development Officer shall set a reasonable time limit within which the violation must be remedied. The length of this time limit will be dependent upon a number of factors, including, but not limited to: whether there is a significant risk to human life, health, property or the environment. Such time limit shall not exceed thirty (30) calendar days. A copy of this written Order shall be provided to the Director of Planning and Development and the Town's Chief Administrative Officer (CAO);
- (b) Upon expiration of the time limit for remedy of the violation as noted in clause 2(b), the Development Officer shall conduct an inspection to determine if compliance has occurred. If the owner has not remedied the violation the Development Officer shall:
 - (i) Provide an extension, upon the request of the owner and where deemed valid, reasonable and appropriate by the Development Officer. Such extension shall not exceed thirty (30) calendar days.
 - (ii) Where the Order has not been complied with, and an extension is not warranted, the Development Officer shall forward a recommendation to proceed to prosecution in accordance with Section 3 of this Policy upon approval of the Town's CAO.

3. Prosecution Procedures

Prosecution of an owner(s) for violations shall only occur once reasonable steps to remedy, as outlined in Section 2 of this policy, have been taken by the Development Officer and the owner has not remedied the violation. All decisions respecting the laying of a charge will be made based on sound judgment and principles of fairness and equity. In addition, the Town shall follow established principles in deciding whether to lay charges, which shall be:

The decision to lay a charge concerning a minor offence using a Summary Offence Ticket (SOT) will be the decision of the Development Officer in consultation with the CAO;

The Development Officer will only proceed with a charge where there are reasonable grounds to believe that an offence has occurred;

The decision to lay a charge concerning an offence of a more serious nature, or which involve repeat offenders, as well as the method of charge used will be made in consultation with the CAO and the Town's Solicitor. A charge may not proceed where, in the opinion of the person prosecuting the charge, there is not a reasonable likelihood of conviction.

4. The laying of an SOT charge, if deemed appropriate, shall be done in accordance with the Summary Proceedings Act and the Summary Offence Ticket Regulations.
5. Notwithstanding, where the owner(s) have applied to amend the Land Use By-law in order to be in compliance with the Land Use By-law, the process as laid out in this Policy shall be stayed until such application is either approved or refused by Council.

(i). When council renders a decision, if the decision does not bring the owner into compliance with the Land Use By-law, the owner shall remedy the violations within thirty (30) of Council's decision or otherwise be subject to prosecution pursuant to this Policy.

(ii) If the Owner(s) appeals the decision of Council, the process as laid out in this Policy shall be stayed until the appeal decision is rendered.

(iii) If the Owner(s) applies to amend the Land Use By-law again, enforcement under this Policy will not be stayed.

Clerks Annotation for Policy Book.

Date of Notice to Council Members
Of Intent to Consider (7 days minimum)

January 27, 2011

Date Policy Approved By Council:

March 17, 2011

I certify that this "*Land Use By-law Enforcement Policy*" was adopted by Council as indicated above



Municipal Clerk

Date

July 14, 2011