



**Town of Digby**  
**Administration Policy #2015-001**  
**Payment in Lieu of Prosecution Policy**

1. This Policy is entitled "Payment in Lieu of Prosecution Policy".
2. In this Policy:
  - (1) "applicable offence" means an offence to which this Policy applies;
  - (2) "enforcement officer" means the Town's By-Law Enforcement Officer and members of the Royal Canadian Mounted Police Department except when another employee of the Town 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 Notice appended to this Policy.

6. The exercise of the enforcement officer's discretion pursuant to Section 5 shall conform to 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-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 fill in the blanks on 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 pay 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 to **Town of Digby, P. O. Box 579, Digby, N. S. B0V 1A0** ; or in person at **Town Office in the Town Hall, First Ave., Digby, N. S.**
11. A receipt for such payments shall be provided by municipal staff to the payer, identifying the number on the Notice of 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 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.
14. 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.
15. Subject only to section 13, non-compliance by the Town with this Policy shall not constitute a defense to a charge for breach of a By-Law.

**Clerk's Annotation for Official Policy Book**

Date of Notice: January 19, 2015

Date of adoption: February 3, 2015

Policy effective date: February 3, 2015

I certify that this **Administration Policy # 2015-001 Payment in Lieu of Prosecution Policy** was adopted by Council as indicated above.



February 3, 2015

**Clerk**

**Date**

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# Appendix "A"



## NOTICE OF BY-LAW VIOLATION

N° 2095

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

that \_\_\_\_\_  
(Name)

of \_\_\_\_\_  
(Address)

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

did on \_\_\_\_\_ at \_\_\_\_\_  
(Date of Offence) (Time of Offence)

commit a violation of a By-Law of the Town of Digby, namely,

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

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 DIGBY, P.O. BOX 579, DIGBY, NOVA SCOTIA B0V 1A0 OR MAY BE MADE IN PERSON AT TOWN OFFICE, TOWN HALL, 147 FIRST AVENUE, DIGBY, NOVA SCOTIA.

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

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

\_\_\_\_\_  
Enforcement Officer (Signature)

WHITE - Offender Copy

CANARY - File Copy

PINK - Book Copy