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DEPARTMENT: PLANNING AND DEVELOPMENT

TITLE: **ENFORCEMENT POLICY AND SUMMARY OFFENCE TICKETS**

Minutes reference date: 26 June 2006

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**POLICY STATEMENT**

1. The Town of Amherst may use summary offence tickets as a tool in enforcing the following:

1. Municipal Government Act – Schedule 16 Including but not limited to:

PART XV Dangerous or Unsightly Premises – Items 66, 67, 68 Sections 344 and 348(4)

*Failing to maintain property so as not to be dangerous or unsightly.*

*Permitting, causing or continuing to permit or cause dangerous or unsightly condition after order to remedy served.*

*Failing to comply with the order to remedy dangerous or unsightly condition.*

2. Building Code Act – Schedule 17 Including but not limited to:

*Constructing or demolishing building without permit, Section 8 (a).*

*Occupying or changing class of occupancy (specify) of building without permit, Section 8 (b).*

2. Persons involved in the development and application of this policy may include:

By-law Enforcement Officer(s)  
Assistant Development Officer  
Building Inspector  
Police Chief / Constable  
Solicitor  
Town Clerk  
Town Engineer

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## **GUIDELINES**

### **Enforcement Principles**

3. The investigation of alleged violations is the responsibility of the Assistant Development Officer/building Inspector and the By-law Enforcement Officer. The prosecution of charges is the responsibility of a solicitor appointed by the municipality.
4. The municipality will follow established principles in deciding whether to lay charges, which include:
  1. The decision to lay a charge concerning a minor offence using a Summary Offence Ticket (SOT) will be the decision of the investigator. The investigator will only proceed with a charge where there are reasonable grounds to believe that an offence has occurred.
  2. Warnings may be issued concerning a minor offence where the investigator deems appropriate. In deciding whether to proceed with a warning or a ticket, the investigator will respect the principle of equal protection and benefit of the law. The decision will be made in a non-discriminatory and fair manner which protects the public interest at large.
  3. The investigation of alleged offences of a more serious nature, or which involve repeat offenders will involve the investigator and solicitor. The decision whether to lay a charge will be based on sound judgement and principles of fair and equitable treatment under the law. The decision will be reached after consultation with the 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.
  4. The investigator has the ultimate right and duty to determine the charges to be laid, subject to advice from the solicitor and subject to the right of the solicitor to withdraw or stay charges, after they have been laid.

### **Prosecutorial Discretion**

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

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6. In the laying of charges and decisions respecting staying of prosecution, consideration of the public interest may be relevant. In determining whether the public interest may be served, the following factors should be considered:
  1. Whether there is significant risk to human life, health, property or the environment;
  2. Any record of compliance;
  3. Any relevant history;
  4. Whether the violation seems deliberate in nature or, if not deliberate, the degree of negligence or carelessness involved;
  5. Whether the violation has been repeated or a warning was disregarded;
  6. Whether a ticket or prosecution is likely to have a deterrent effect on this individual or others;
  7. Whether failure to enforce would tend to bring the law into disrepute or disrespect.
7. If charges are dropped, the reasons must be recorded in the file.