

Policy: By-law Enforcement Policy

Date Originally Approved: January 27, 1994

Motion: “That on recommendation of Council Committee the policy, Council adopt the Policy on By-law Enforcement as presented and on file in the Clerk’s Office.” Motion carried

This Policy is current as of: December 1, 1997

MUNICIPALITY OF THE COUNTY OF COLCHESTER

POLICY STATEMENT ON BY-LAW ENFORCEMENT

1. In recognition of the direct and indirect costs of prosecuting by-law infractions, the Municipality's policy is one of selective prosecution only.
2. No prosecution shall be commenced without a written request to prosecute being submitted to the Clerk for consideration of Council.
3. No prosecution shall be commenced without the approval of Council.
4. The criteria which shall be considered are whether the costs of prosecution are justifiable in the circumstances and whether it is justifiable to impose those costs on the public at large, i.e., the Municipal Taxpayer. Specifically, the following factors will affect the likelihood of prosecution:
 - (a) The extent to which prosecution would enhance protection of the Municipality's facilities. For example, having regard to some of the capital projects currently underway, prosecution to enforce effluent standards and standards regarding the contents of garbage destined for the landfill may be needed to prevent problems with the sewer treatment and landfill facilities.
 - (b) The extent to which prosecution is required to maintain the integrity of major initiatives or processes undertaken by the Municipality. For example, considerable financial resources, and an elaborate democratic process are involved in adopting and updating planning by-law such as MPS, LUB and Subdivision by-laws, and it would be counterproductive to allow persistent, significant and flagrant breaches of these planning by-laws.
 - (c) The extent to which the by-law infraction involves significant, widespread harms to the community. Both a large magnitude of harm and a large number of adversely affected individuals are factors increasing the likelihood of prosecution. In situations where a by-law infraction involves harm to a single individual or a small number of individuals, private prosecution or civil action will normally be encouraged as an alternative to Municipal prosecution.
 - (d) The extent to which the infraction is amenable to an alternate remedial initiative. For example, a homeowner who places garbage for collection in a manner contrary to the by-law is probably better dealt with by suggesting that the collector decline collection. A breach of the stray livestock by-law may better be dealt with by the Fence Arbitration Committee. A breach of the dog by-law resulting in a dog-bite can be handled by a combination of impounding the animal and civil action or private prosecution.
 - (e) The extent to which a by-law is intended to serve a pro-active, educational function, defining reasonable standards, rather than as a device to punish those who fall short of a standard. The building by-law incorporates the various standards stipulated in the National

Building Code. However, it is not expected that the Municipality would prosecute an owner or builder for each and every breach of the building code which comes to the attention of the authorities. The primary purpose of the standards is to inform and encourage builders to build safer structures.

(f) The extent to which the infraction is wilful and deliberate.

(g) The extent to which the particular infraction would be costly to investigate and prosecute.