

**TOWN OF CORNWALL, PEI
SUMMARY PROCEEDINGS BYLAW
BYLAW #106**

This bylaw is made under the authority of the *Charlottetown Area Municipalities Act* R.S.P.E.I. 1988, Cap. C-4.1.

WHEREAS the *Charlottetown Area Municipalities Act* authorizes the Town of Cornwall to prosecute certain municipal offences by the issuance of summary offence tickets;

BE IT ENACTED by the Council of the Town of Cornwall as follows:

1. Title

This bylaw shall be cited as the “Summary Proceedings Bylaw”.

2. Definitions

2.1 **“Town”** means the Town of Cornwall.

2.2 **“Council”** means the Town Council for the Town of Cornwall.

2.3 **“Enforcement Officer”** means any Animal Control Officer as appointed under the Town of Cornwall Animal Bylaw, as may be amended from time to time, as well as any individual or group of individuals as may be designated by Council pursuant to s. 98.1(1) of the *Charlottetown Area Municipalities Act*, R.S.P.E.I. 1988, Cap. C-4.1.

2.4 **“Provincial Court Judge”** means a judge of the Provincial Court appointed in accordance with the *Provincial Court Act* RSPEI 1988, Cap. P-25.

2.5 **“Justice of the Peace”** means a justice of the peace appointed in accordance with the *Provincial Court Act* RSPEI 1988, Cap. P-25.

3. Summary Offence Tickets

3.1 This Bylaw applies to all offences under the Property Maintenance Bylaw, as may be amended from time to time, and the Animal Control Bylaw, as may be amended from time to time

(a) To determine if a person has committed an offence under a Town Bylaw for which he or she is liable to fine, penalty or other punishment; or

(b) Before a Provincial Court Judge for an order for the payment of money or other remedy authorized by a Town Bylaw.

3.2 Except as otherwise provided by any Bylaw, where imprisonment, fine, penalty or other punishment prescribed by this Bylaw may be enforced or recovered upon summary conviction or by summary proceedings, it shall be enforced or recovered before a Provincial Court Judge in the manner provided by this Bylaw.

- (a) For the purpose of any Bylaw, penalties and/or corrective actions associated to that Bylaw may be imposed, upon a guilty plea, by a Justice of the Peace.
- 3.3 The Provisions of the *Criminal Code of Canada*, R.S.C. 1985 Cap. C-46, as amended from time to time, including provisions relating to appeals, applicable to offences punishable on summary conviction apply with the necessary changes to proceedings to which this Bylaw applies.
- 3.4 In applying the provisions of the Criminal Code, the following expressions shall therein have the following meanings:
- (a) **“Act of the Parliament of Canada”** means a Town Bylaw;
 - (b) **“Attorney General”** means the Attorney General of Prince Edward Island;
 - (c) **“Prison”** means any place other than a penitentiary in which persons charged with or convicted of offences are kept or detained in custody;
 - (d) **“Prosecutor”** means a person who lays an information or makes a complaint or counsel acting on behalf of the Town.
- 3.5 All offences under a Town Bylaw shall be punishable on summary conviction.
- 3.6 Where no punishment is provided for an offence under a Bylaw, the punishment for that offence shall be a fine of not less than \$100.00 or a fine of not more than \$2,000 or in default, imprisonment for a period of 3 days plus an additional day for each \$100 (or part thereof) that is in default to a maximum of 60 days.
- 3.7 In addition to the procedures set out in the *Criminal Code* for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a ticket in accordance with this section for an offence under any provisions of a Bylaw passed by Town Council.
- (a) A ticket shall be issued in the form hereto annexed as Schedule “A” and shall include provision for the information, summons, and record of officer.
 - (b) A ticket may be issued for the Bylaw offences set out in “Schedule B” hereto annexed.
 - (c) The words or expressions set out in Column II of “Schedule B” may be used on a ticket to designate an offence under the provision of the Bylaw referred to in Column I thereof.
 - (d) Notwithstanding subsection (c), any words or expressions used on a ticket which describe with the sufficient clarity the offence committed shall be for all purposes a sufficient description of an offence designated in “Schedule B”.
 - (e) Where the offence charged in the ticket is one for which the penalty may be paid out of court, the Enforcement Officer issuing the summons may

enter the amount of the penalty in the place provided therefor on the ticket, and that entry constitutes the endorsement required by Section 2.8.

- (f) The amount of penalty entered on a summons under subsection (e) shall be equal to the sum of (i) the penalty prescribed for the out of court settlement of the offence charged in the summons; and (ii) the administrative charge.
- (g) The use on the ticket of any word or expression authorized by this or any other Bylaw to designate an offence is sufficient for all purposes to describe the offence designated by that word or expression.
- (h) Upon completing a ticket, the issuing Enforcement Officer shall print his or her name on the summons portion and deliver the summons portion to the person charged with an offence therein, and delivery of the ticket summons in accordance with this subsection shall be deemed to be personal service.
- (i) Delivery of a ticket summons may be made on a holiday.
- (j) The issuing Enforcement Officer shall sign the information portion of the ticket and certify that he or she personally delivered the summons portion of the ticket to the person charged therein and the certification shall be in the following words:

“I certify that I did personally deliver the summons portion of this ticket on the accused on the _____ day of _____, 20____.”

- (k) A certificate of delivery purporting to be signed by the issuing Enforcement Officer shall be received in evidence as sufficient proof of personal service in the absence of evidence to the contrary.
- (l) Every ticket information shall be
 - (i) *Signed by the informant and sworn to before a Justice of the Peace or Provincial Court Judge; and*
 - (ii) *In the event of a trial, and upon the entering of a not guilty plea, deposited, together with the ticket report of conviction, with the proper Provincial Court Judge.*
- (m) The ticket information need not be sworn to before the summons portion of the ticket is delivered and the informant need not be the same person as the person who issued the ticket summons.

3.8 There may be endorsed upon a ticket summons a notice that the person to whom the summons is directed may pay out of court a specified penalty.

- (a) Where a ticket summons is so endorsed, it shall provide for a plea of guilty in the following form:

PLEA OF GUILTY

I am aware that I have the legal right to a hearing in respect of the offence with which I am charged, that by signing this plea of guilty I am waiving my right to a hearing and that my signature may result in a conviction against me without a hearing. **I hereby plead guilty to the offence as charged.**

Signature of the Accused

- (b) A signature affixed to the form of plea of guilty purporting to be that of the person to whom the summons is directed is *prima facie* proof that it is the signature of that person.
 - (c) The Enforcement Officer or other person delivering a summons endorsed under this section shall not receive payment of the penalty payable out of court, or any part thereof.
 - (d) Upon receipt of the summons with a plea of guilty made thereon in accordance with subsection 3.8(a), a Provincial Court Judge or Justice of the Peace may convict the person to whom the summons is directed of the offence described in the summons.
- 3.9 Where a person to whom a ticket summons has been delivered fails to appear as directed by the ticket summons and there has been no plea of guilty made on the ticket pursuant to subsection 3.8(a), the Provincial Court Judge or Justice of the Peace shall:
- (a) Where the information portion of the offence ticket is sworn to by the informant and is complete and regular on its face, enter a conviction on that information and impose the minimum penalty authorized by law for the offence or, where another penalty for that offence has been prescribed for out of the court settlement, that other penalty; or
 - (b) Where the information portion of the offence ticket is not complete and regular on its face, quash the proceeding.

This Bylaw received first reading at the town council meeting of June 18, 2014.

This Bylaw received second reading at the town council meeting of July 16, 2014.

Witness the corporate seal of the town.

Glen 'Barney' Fullerton, Mayor

Kevin McCarville, Chief Administrative Officer

BE IT RESOLVED THAT: Bylaw No. 106, being a Bylaw relating to the issuance of summary offence tickets by the Town, is hereby enacted as a Bylaw of the Town and the mayor and chief administrative officer be and they are hereby authorized to sign the Bylaw and apply the Town's seal thereto.

Dated the 17th day of July, 2014.

Glen 'Barney' Fullerton, Mayor

Kevin McCarville, Chief Administrative Officer

This Bylaw was filed with the Minister of Finance, Energy and Municipal Affairs on this ____ day of _____, 2014.