

BY-LAW NO. 7167

BEING A BY-LAW of The City of Brandon to provide an effective means for ensuring compliance with and enforcement of City by-laws related to parking offences and to be known and the "Parking Enforcement By-law".

WHEREAS *The Municipal By-law Enforcement Act*, C.C.S.M. c.M245 2013 provides that municipal by-laws respecting parking may only be enforced by issuing penalty notices under that Act;

AND WHEREAS the City of Brandon Traffic By-law currently sets out parking restrictions within the City whereby a peace officer and/or by-law enforcement office is authorized to issue a penalty notice for parking violations;

AND WHEREAS it is deemed expedient and in the public interest to establish a process in accordance with *The Municipal By-law Enforcement Act* for administering penalty notices;

NOW THEREFORE the Council of The City of Brandon, duly assembled, enacts as follows:

1. In this By-law:

"ACT" means *The Municipal By-law Enforcement Act* of the Province of Manitoba and current amendments thereto unless otherwise indicated.

"ADJUDICATOR" means a person appointed under section 15 of the Act.

"CITY" means The City of Brandon or the area contained within the boundaries thereof.

"CITY MANAGER" means the City Manager of the City or designate.

"DESIGNATED EMPLOYEE" means that City employee appointed by the City Manager and delegated responsibility for ensuring the provisions of this By-law are followed.

"FEE SCHEDULE" means the fees set out in the current Annual Schedule of Fees By-law as may be amended from time to time.

"SCREENING OFFICER" means that individual appointed herein and responsible for hearing appeals to penalty notices.

"TRAFFIC BY-LAW" means the current City Traffic By-law as may be amended from time to time.

2. The parking related contraventions described in the Traffic By-law are hereby designated as by-law contraventions which may be dealt with by a penalty notice under this By-law and the Act.
3. The administrative penalties described in the Fee Schedule for each parking related contravention identified are hereby set as per the stated Schedules.
4. The discounted amount as shown in the Fee Schedule for the contravention to which it relates may be paid as an administrative penalty if payment is made within fifteen (15) days of service of the penalty notice as provided for in subsection 3. (3)(a) of the Act.
5. A penalty notice must contain the information required by section 6 of the Act.
6. A penalty notice may be in any form permitted by the Act and approved by the Designated Employee. The Designated Employee is authorized to approve more than one form of a penalty notice.
7. A penalty notice may not be issued if more than the period of time set out in section 8 of the Act has elapsed after the designated by-law contravention for which it is issued is alleged to have occurred.
8. A penalty notice must be delivered as permitted by section 9 of the Act or by regulations made pursuant to the Act.
9. The person to whom a penalty notice is delivered may, within thirty (30) days after the date of service of the penalty notice, either:
 - (a) pay the administrative penalty; or
 - (b) request a review by a Screening Officer.

10. The Designated Employee must ensure that a final notice as required by section 22 of the Act is delivered to a person who fails to respond to a penalty notice in compliance with Section 9 herein.
11. The City Manager may appoint Screening Officers as required to meet the administrative needs of this By-law.
12. A Screening Officer may take one of the following actions with respect to a penalty notice:
 - (a) uphold the full amount of the administrative penalty;
 - (b) if authorized under Section 13 herein, reduce the amount of the administrative penalty to as little as \$1.00, or issue a warning without imposing any penalty;
 - (c) if deemed appropriate, enter into a compliance agreement with the person in accordance with provisions set out in the Act; or
 - (d) cancel the penalty notice where:
 - (1) the contravention did not occur as alleged;
 - (2) the penalty notice does not comply with subsection 6(2) of the Act;
 - (3) in the case of a parking contravention, the vehicle owner can show that the vehicle was stolen or otherwise being used without the owner's permission at the time of the contravention;
 - (4) the contravention was the result of a medical emergency or for some other reason was necessary in order to address immediate health and safety concerns.
13. The Screening Officer may reduce the amount of the administrative penalty where:
 - (a) In the case of a parking contravention:
 - (1) there would have been no contravention if a permit, license, ticket or other document had been properly displayed on or within the vehicle, and the vehicle owner can show that, although the permit, license, ticket or other document was not properly displayed, it had been issued and was valid and applicable to the vehicle at the time of the contravention;
 - (2) the vehicle owner can show that the contravention was a result of a minor medical emergency;
 - (3) the vehicle owner can show that the person in respect of whom the penalty notice was issued was undergoing a personal tragedy which played a role in the contravention and a reduction of the amount of the administrative penalty is in the public interest;
 - (4) the vehicle owner can show both that the contravention was a result of mechanical problems and that they reasonably prevented the person in respect of whom the penalty notice was issued from complying with the by-law despite the fact that he or she exercised due diligence in attempting to comply;
 - (b) the circumstances surrounding the contravention are such that a reduction of the amount of the administrative penalty would be in the public interest.
14. When conducting a review of a penalty notice, a Screening Officer must consider the full amount of the administrative penalty for the contravention and not the discounted amount, whether or not the person appears within fifteen (15) days of the penalty notice being issued.
15. Where a Screening Officer makes a decision to uphold the full amount of the administrative penalty or reduce the amount of the administrative penalty, he or she must give a copy of the written reasons for the decision to the person who requested the review in accordance with Section 33 or 34 herein.
16. Unless the Screening Officer has decided to cancel the penalty notice, the written reasons given by a Screening Officer must be accompanied by a notice to the person that they must, within seven (7) days after the person has received or is deemed to have received the written reasons, either:
 - (a) pay the administrative penalty, or pay the reduced amount if the Screening Officer has reduced it; or
 - (b) request an Adjudicator, in accordance with the provisions set out herein, to review the Screening Officer's decision.
17. Unless a person requests an adjudication as set out herein, or unless the Screening Officer grants additional time for the person to pay the administrative penalty, the amount of the administrative penalty as decided by the Screening Officer is due and payable to the City of Brandon seven (7) days after the written reasons have been received or are deemed to have been received by the person to whom the penalty notice was issued.

18. If the person does not request adjudication within fifteen (15) days after receiving notice, the administrative penalty set out in the penalty notice is immediately due and payable to the City.
19. An adjudication scheme as described in sections 14 to 20 of the Act is hereby established to allow a person to whom a penalty notice has been issued to:
 - (a) request a review of a Screening Officer's decision to confirm or reduce the administrative penalty set out in the penalty notice; or
 - (b) request a determination of a dispute as to whether the terms of a compliance agreement were complied with.
20. A person who wishes to have an Adjudicator review a Screening Officer's decision to confirm or reduce the administrative penalty set out in the penalty notice must request the review within seven (7) days after receiving the Screening Officer's written reasons for their decision.
21. A fee as set out in the Fee Schedule is imposed for a request for an adjudication.
22. When the place, date and time for an adjudication has been determined, the Designated Employee must give notice of the date, time and place to the person requesting the adjudication.
23. If the person is unable to attend the scheduled adjudication, he or she may request that it be rescheduled. Such a request must be submitted in writing or through electronic means to the mailing or electronic address provided by the City, and must include either:
 - (a) at least three (3) dates on weekdays on which the person will be available either in the morning or the afternoon to attend a rescheduled adjudication; or
 - (b) contact information, such as a mailing address, telephone number, or email address, that will allow a Designated Employee to arrange with the person a date for a rescheduled adjudication.
24. A request for a rescheduled adjudication must be received by the City at least forty-eight (48) hours in advance of the scheduled adjudication. If it is not received prior to this time, the adjudication must proceed as originally scheduled.
25. Other than requests that are received by the City within seven (7) days of the notice being given to the person, a person may not request that an adjudication be rescheduled more than once for the same penalty notice.
26. When a request for a rescheduled adjudication has been received by the City, the Designated Employee must reschedule the adjudication:
 - (a) to a date provided by the person under Subsection 23. (a) herein; or
 - (b) if the person has provided contact information under Subsection 23. (b) herein, to a date arranged with the person after the Designated Employee has contacted the person.

If a Designated Employee has made unsuccessful but reasonable efforts to contact the person at the contact information provided under Subsection 30. (b), the Designated Employee may reschedule the adjudication on any suitable date.
27. A Designated Employee must give notice of the date, time and place of a rescheduled adjudication to the person requesting the rescheduled adjudication.
28. Adjudications must be held in accordance with, and the Adjudicator must follow, the rules set out in sections 16 to 20 of the Act.
29. An Adjudicator has the powers granted in sections 20, 21, and 25 of the Act.
30. If the adjudication upholds the full amount of the administrative penalty or reduced the amount of the penalty, the amount of the administrative penalty as determined by the Adjudicator is immediately due and payable unless the Adjudicator allows time for payment under Section 31 herein.
31. At the request of the person to whom the penalty notice was delivered, the Adjudicator may allow up to seven (7) days for payment of the administrative penalty or reduced amount of the penalty, as the case may be.

32. The Designated Employee is empowered to administer and enforce this By-law and to take any actions reasonably required to do so. Without limiting the general nature of this authority, the Designated Employee is specifically authorized to:
- (a) approve the form or forms of documents required by the Act or this By-law, including penalty notices and final notices;
 - (b) establish administrative procedures for:
 - (1) accepting payments of administrative penalties;
 - (2) accommodating requests for review by Screening Officers;
 - (3) accommodating requests for review by Adjudicators;
 - (4) accommodating requests for rescheduling of adjudication;
 - (c) take actions to collect administrative penalties owed to the City.
33. Where a notice or other document referred to in this By-law is required to be given to a person (other than to the City), unless this By-law provides otherwise, the notice or other document may be given:
- (a) by delivering it personally to the person;
 - (b) by mailing a copy by regular mail or delivering a copy:
 - (1) if the notice or document relates to penalty notice for a contravention involving a vehicle, to the address of the vehicle owner indicated in the records of the Registrar of Motor Vehicles;
 - (2) to the last known address of the person named in the penalty notice, which may be an address indicated in the records of the Registrar of Motor Vehicles; or
 - (c) if the person is a corporation:
 - (1) by mailing a copy by regular mail to the corporation’s registered office;
 - (2) by mailing a copy by regular mail or delivering a copy to an officer or director of the corporation;
 - (3) by delivering it personally to someone who appears to be in charge at a place where the corporation carries on business; or
 - (d) if the person has used email or another method of electronic communication to communicate with the City, by sending it to the email address or other electronic address provided by or shown in the communication from the person.
34. A notice or other document that is:
- (a) delivered personally is deemed to have been given on the day it was delivered;
 - (b) mailed under Section 33 herein or mailed to the City under this By-law is deemed to have been given to the person or received by the City seven (7) days after the day it was mailed;
 - (c) sent electronically under Subsection 33. (d) or sent electronically to the City under this By-law is deemed to have been given two (2) days after it was sent.
35. The Traffic By-law is amended by repealing Subsection 56. (a) and substituting the following therefor:
- “56. (a) Where an offence as alleged in Section 55 hereof is a parking violation, the specific fines as set out in the Fee Schedule are to be levied by issuance of a penalty notice identifying the details of the infraction. Thereinafter, provisions of the Parking Enforcement By-law shall prevail.”
36. This By-law shall come into full force and take effect on the 6th day of February A.D. 2017.

DONE AND PASSED by the Council of The City of Brandon duly assembled this 23rd day of January A.D. 2017.

“R. Chrest” MAYOR	“N. Peto” A/ CITY CLERK		
Read a first time this	9 th day of	January	A.D. 2017
Read a second time this	23 rd day of	January	A.D. 2017
Read a third time this	23 rd day of	January	A.D. 2017

I, Nathan Edward Peto, Acting Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No. 7167.