

**BY-LAW NO. 11-23**

**OF THE RURAL MUNICIPALITY OF ROSSER**

**A BY-LAW TO PROVIDE FOR AN ADMINISTRATIVE PENALTY SCHEME  
FOR BYLAWS TO BE ENFORCED WITHIN THE BYLAW ENFORCEMENT  
ACT OF MANITOBA, C.C.S.M. c. M245**

**WHEREAS** section 3(1) of the Municipal By-law Enforcement Act ("Act") provides that a municipality may require that administrative penalties be paid in respect of the contravention of its by-laws;

**AND WHEREAS** the Act provides that municipal by-laws respecting contraventions of their by-laws using an administrative penalty scheme that does not involve court proceedings and allows for issuing penalty notices under that Act and not to be enforced by a proceeding under the Summary Convictions Act;

**AND WHEREAS** Council for the Rural Municipality of Rosser (the "Municipality") deems it advisable in the public interest to provide for an administrative penalty scheme as an additional means of encouraging compliance with its by-laws;

**NOW THEREFORE** Council of the Municipality enacts as follows:

**PURPOSE AND INTERPRETATION**

1. The purpose of this by-law is to establish an administrative penalty scheme for the enforcement of parking and other by-law contraventions and an adjudication scheme to review screening officer decisions. This by-law may be referred to as the Municipal By-Law Enforcement Act Enabling By-Law.
2. The following definitions apply to this by-law:
  - a. **"Council"** shall mean the council for the Rural Municipality of Rosser
  - b. **"Municipality"** shall mean the Rural Municipality of Rosser
3. This by-law contains the following Schedules:

Schedule "A": By-law contraventions that may be dealt with by a penalty notice under the Act.

Schedule "B": Forms of penalty notices for parking contraventions and other by-law contraventions.

Schedule "C": Form of final notice.

Schedule "D": Screening officer remuneration and expenses.

Schedule "E": By-law contraventions that may be dealt with by a compliance agreement.

**BY-LAW CONTRAVENTIONS AND PENALTIES**

4. The by-law contraventions described in Schedule "A" are hereby designated as by-law contraventions that may be dealt with by a penalty notice.
5. The administrative penalties (including discounted amounts) described in Schedule "A" for each contravention are hereby set.
6. The discounted amount as shown in Schedule "A" for the by-law contravention to which it relates may be paid as an administrative penalty if:
  - a. payment is made within 14 days after delivery of the penalty notice, and
  - b. no request is made for review by a screening officer.
7. A penalty notice shall be in the form set out in Schedule "B".

8. The period within which a person must pay the administrative penalty or request a review by a screening officer is hereby set at 30 days after delivery of the penalty notice.
9. If, at the end of the period for responding to a penalty notice under section 8 of this by-law, a person to whom a penalty notice was delivered has not responded, the Municipality must deliver a final notice to the person in the form of Schedule "C". A person to whom a final notice is delivered must, within 30 days after delivery, pay the administrative penalty or request a review by a screening officer.
10. The Municipality must deliver penalty notices and final notices in the manner provided for in sections 9 and 22 of the Act and section 3 of the Municipal By-law Enforcement Regulation, and the date of delivery shall be determined in accordance with those sections. The giving of other notices or documents by the Municipality, a screening officer or an adjudicator is governed by sections 34 to 36 of this by-law. Periods within which affected persons must make payments or request a review or adjudication are determined under section 36 of this by-law.

### **SCREENING OFFICER**

11. Council shall by resolution appoint one or more screening officers.
12. A member of council or of a council committee is not eligible to be appointed as a screening officer.
13. A screening officer who is not an employee of the Municipality must be paid remuneration and expenses as set out in Schedule "D".

### **REVIEW BY SCREENING OFFICER**

14. A request for review by a screening officer must be made in the manner set out in the penalty notice. When in writing the request must include a telephone number and/or email address, with an indication of the preferred means of communication with the screening officer to make arrangements for the review.
15. In the case of contraventions described in Schedule "E", a request for review may include an indication that the person is prepared to enter into a compliance agreement.
16. Within 14 days after receiving the request, the screening officer must attempt to contact a person who has requested a review to arrange a mutually convenient date, time and means of reviewing the request. The means of the review may be written submission, on the telephone or in person, at the option of the person who has made the request.
17. If
  - a. the screening officer is unable to contact a person who has requested a review, or
  - b. the person without reasonable cause does not agree to a date and time or means of review,the screening officer must set a date and time for the review in person or by telephone. If the person fails to participate or appear the screening officer must review the penalty notice based on the information provided by the person in the request.
18. If having agreed to a date and time or means of review the person fails to participate in it, the screening officer must review the penalty notice based on the information provided by the person in the request.
19. On a review of a penalty notice, the screening officer may:
  - a. confirm the administrative penalty;
  - b. reduce the amount of the administrative penalty if satisfied that exceptional circumstances exist;

- c. in the case of a contravention described in Schedule "E", enter into a compliance agreement with the person on behalf of the Municipality; or
  - d. cancel the penalty notice if, in the screening officer's opinion,
    - i. the contravention did not occur as alleged,
    - ii. the penalty notice does not comply with section 6(2) of the Act, or
    - iii. in the case of a parking contravention the vehicle owner can show
      - 1. the vehicle was stolen or otherwise being used without the owner's permission at the time of the contravention,
      - 2. the contravention was the result of a medical emergency or was necessary in order to address immediate health or safety concerns, or
      - 3. both that the contravention was a result of a mechanical problem and that the problem reasonably prevented the person in control of the vehicle at the time of the contravention from complying with the by-law despite exercising due diligence in attempting to comply.
20. The screening officer must make a decision in writing within 14 days after the review. After making the decision, the screening officer must give the affected person notice of the decision.
21. If the screening officer confirms or reduces the amount of the administrative penalty, the amount is due and payable within 14 days after receipt (or deemed receipt under section 35 of this by-law) of the decision of the screening officer, unless the person requests adjudication under section 27 of this by-law.

### **COMPLIANCE AGREEMENT**

22. The by-law contraventions described in Schedule "E" are hereby designated as by-law contraventions that may be dealt with by a compliance agreement.
23. A compliance agreement must:
- a. describe the action to be taken to bring the person into compliance with the by-law,
  - b. state a date no later than 60 days after the date of the agreement by which the action must be completed, and
  - c. provide for inspection for the purpose of determining compliance with the agreement.
24. If the screening officer believes that a person who has entered into a compliance agreement has failed to comply with its terms, the screening officer may end the compliance agreement and give the person notice of that fact by regular mail. The notice is deemed to be received within seven days after the day it was mailed.
25. When a screening officer ends a compliance agreement, the person who entered into it may, within 14 days after receiving the notice under section 24 of this by-law
- a. pay the administrative penalty set out in the penalty notice; or
  - b. request that the screening officer submit for adjudication the issue of whether the person complied with the terms of the agreement.

### **ADJUDICATION SCHEME**

26. An adjudication scheme described in sections 14 to 21 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;
  - b. request a determination of a dispute as whether the terms of a compliance agreement were complied with.
27. Within 14 days after receipt (or deemed receipt under section 35 of this by-law) of the screening officer's decision, the person may request a review of the screening officer's

decision by an adjudicator by notice in writing to the screening officer mailed or delivered to the municipal office accompanied by a \$25 adjudication fee.

28. Upon receipt of a request for adjudication and the payment of the adjudication fee, the screening officer must submit the request to the chief adjudicator appointed under the Act.
29. The selected adjudicator must attempt to contact a person who has requested a review to arrange a mutually convenient date, time and means of reviewing the request. The person may be heard
  - a. by telephone or in writing, including by fax or e-mail; or
  - b. through the use of a video or audio link or other available electronic means.
30. If
  - a. the adjudicator is unable to contact a person who has requested a review,
  - b. the person without reasonable cause does not agree to a date and time or means of hearing, or
  - c. the person fails to appear or otherwise participate in the hearing,

the adjudicator must order that the amount of the administrative penalty set by the screening officer or in the case of the ending of a compliance agreement, the administrative penalty set out in the penalty notice, is immediately due and payable to the Municipality.

31. In addition to the powers of the adjudicator in making a decision set out in section 19(2) of the Act, the adjudicator may cancel the penalty notice on the grounds set out in section 19d.iii of this bylaw and may reduce the amount of the administrative penalty if satisfied that exceptional circumstances exist, in which case the reduced penalty is immediately due and payable to the Municipality.

#### **CHIEF ADMINISTRATIVE OFFICER'S AUTHORITY**

32. The Chief Administrative Officer is authorized to do the following:
  - a. pay invoices
    - i. of the screening officer for remuneration and expenses under Schedule "D";
    - ii. for the costs and administration of the adjudication scheme under section 21(1) of the Act;
    - iii. for the remuneration and expenses of adjudicators;
  - b. refund an adjudication fee ordered to be refunded by an adjudicator.
  - c. issue a certificate in respect of an unpaid penalty under section 23(1) of the Act and file the certificate in the Court of Queen's Bench.

#### **DISCLOSURE OF INFORMATION**

33. Upon receipt of an adjudicator's decision, the Chief Administrative Officer must make the decision available to the public.

#### **NOTICES AND TIME PERIODS**

34. Where a notice or other document (other than a penalty or final notice) referred to in this bylaw is required to be given to a person (other than to the Municipality), 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
    - i. if the notice or document relates to a parking contravention, to the address of the vehicle owner indicated in the records of the Registrar of Motor Vehicles;
    - ii. to the last known address of the person named in the penalty notice; or

- c. if the person is a corporation,
    - i. by mailing a copy by regular mail to the corporation's registered office;
    - ii. by mailing a copy by regular mail or delivering a copy to an officer or director of the corporation;
    - iii. 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 e-mail in communication, by sending it to the e-mail address provided by or shown in the communication from the person.
35. A notice or other document given under section 34 that is
- a. delivered personally is deemed to have been given or delivered on the day it was delivered;
  - b. mailed is deemed to have been given or delivered to the person seven days after the day it was mailed;
  - c. sent by email is deemed to have been given or delivered two days after the day it was sent.
36. In determining the time within which a person must make a payment or request review or adjudication,
- a. the time does not include the first day of the period;
  - b. a period that would otherwise expire on a holiday is extended to include the next day that is not a holiday;
  - c. a period that would otherwise expire on a day when the municipal office is not open is extended to include the next day the municipal office is open.

**TRANSITIONAL**

37. This by-law shall come into force on the day it receives third reading.
38. Prosecutions of designated by-law contraventions that were started before this by-law comes into force shall continue under the procedures of the former by-laws and the Summary Convictions Act.

DONE AND PASSED by Council of the Rural Municipality of Rosser in open meeting, duly assembled, this 26 day of September 2023.

Rural Municipality of Rosser

  
\_\_\_\_\_  
Reeve: Kenneth Mulligan

  
\_\_\_\_\_  
Chief Administrative Officer: Larry Wandowich

Read a First time this 12 day of September, 2023.  
Read a Second time this 26 day of September, 2023.  
Read a Third time this 26 day of September, 2023.

## Schedule "A"

The following are the by-law contraventions which may be dealt with by a penalty notice under *The Municipal By-law Enforcement Act*, as well as the administrative penalties for each contravention, and the discounted amount for each contravention referred to in sections 5-6 of the By-Law.

### Fines for Parking and Related Offences

Parking By-law, By-Law No. 11-23		Administrative Penalty	
Section	Contravention	Administrative Penalty (\$)	Discounted Amount (\$)
8	Driving on a street closed to traffic	100	50
9	Failure to obey traffic control signals	150	75
10	Parking or stopping where prohibited	70	35
11	Parking or stopping where prohibited except for passenger vehicles	70	35
12(a)	Parking or stopping on a sidewalk	100	50
12(b)	Parking or stopping in front of a driveway	70	35
12(c)	Parking or stopping in an intersection or within 3 metres of an intersection	100	50
12(d)	Parking or stopping within 3 metres of a fire hydrant	150	75
12(e)	Parking or stopping on a crosswalk	100	50
12(f)	Parking or stopping within three metres of a crosswalk approach	100	50
12(g)	Parking or stopping in a manner that obstructs or causes a hazard	100	50
12(h)	Parking or stopping on a roadway beside another vehicle	70	35
12(i)	Improper parking or stopping	70	35
13	Parking or stopping on a boulevard	70	35
14	Parking a large vehicle for more than one hour	70	35
16	Parking where prohibited by signs or markers	70	35
17	Parking on inner side of roadway	70	35
18	Parking contrary to traffic control and parking regulations	70	35
23	Failure to comply with permit conditions	100	50
24(a)	Displaying permit in vehicle other than vehicle issued by any person	70	35
24(b)	Displaying permit in vehicle other than vehicle issued by owner	70	35
31	Parking abandoned or inoperable vehicle	200	100

**Schedule "B"**  
**PENALTY NOTICE INFORMATION**

Penalty Notice Number: \_\_\_\_\_

Date of Issue: \_\_\_\_\_

Location: \_\_\_\_\_

Violation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**SCREENING OFFICER'S DECISION:**  
*(Screening Officer to check one box)*

- The administrative penalty in the amount of \$\_\_\_\_\_ is confirmed and is due \_\_\_\_\_.
- The administrative penalty is reduced to \$\_\_\_\_\_ and is due \_\_\_\_\_.
- The penalty notice is cancelled.
- The penalty notice is stayed pending completion of the terms of a compliance agreement.

\_\_\_\_\_  
Screening Officer's Signature

**RIGHT TO ADJUDICATION**

You have a right to have this decision reviewed by an independent adjudicator. If you wish to request adjudication you must do so by completing a Request for Adjudication form and filing it in the Municipal Office at 130 Second Street by the date specified on the form. A fee of \$25.00 is required to file a Request for Adjudication. This fee will be refunded to you if the adjudicator determines you were successful on the adjudication.

**Schedule "C"**  
**FORM OF FINAL NOTICE**

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[To]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[City] [Province] [Postal Code]

Re: **FINAL NOTICE**

Violation of the Rural Municipality of Rosser By-law No. *[by-law number]*, *[insert by-law name]*

**CONTRAVENTION**

This Final Notice is issued to you that as a result of your failure to comply with the Penalty Notice issued to you for violation of the Rural Municipality of Rosser By-law No. *[by-law number]*, *[insert by-law name]*

\_\_\_\_\_  
*[insert a brief description of the violation and of the section(s) of the By-law violated]*

As a result, you have until \_\_\_\_\_ ("Deadline")  
[month, day, year]

to EITHER:

1. Pay the penalty of \$ \_\_\_\_\_; OR
2. Request a review by a screening officer.

**PAYMENT:** Payment must be made by cash, debit or certified cheque.

**REQUEST FOR REVIEW:** A request for review by a screening officer must be made in writing to the Chief Administrative Officer either by Canada Post or email. If you request a review, the screening officer will review the circumstances that resulted in the Penalty Notice, as well as the information you and the by-law enforcement officer provide. After the review, the screening officer may confirm or reduce the penalty amount, cancel the Penalty Notice, or enter into a compliance agreement with you that will bring yourself into compliance with the By-law.

**FAILURE TO RESPOND:** If you have not paid the penalty or requested a review by the Deadline, the penalty amount will be due and payable immediately. Failure to pay will result in the Municipality taking collection proceedings against you to collect the penalty amount.

Signed by:

\_\_\_\_\_  
By-law Enforcement Officer



**Schedule "D"**

**SCREENING OFFICER RENUMERATION AND EXPENSES**

**Screening Officer**

Hourly rate:

Transportation costs:

Expenses (including...):

Schedule "E"

AGREEMENT RESPECTING ADMINISTRATIVE PENALTY  
(COMPLIANCE AGREEMENT)

Date \_\_\_\_\_

On \_\_\_\_\_, penalty notice # \_\_\_\_\_  
[insert date] [insert number]

was issued to \_\_\_\_\_ (the "recipient")  
[insert name]

in respect of a violation of \_\_\_\_\_.  
[insert by-law]

The penalty notice required the recipient to pay \$ \_\_\_\_\_ (the "administrative penalty")  
[insert penalty]

The recipient requested a review of the penalty notice by a screening officer and the penalty notice was reviewed by a screening officer on \_\_\_\_\_ [insert date] in the presence of the recipient.

The By-law authorizes the use of a compliance agreement.

The purpose of a compliance agreement is to give the recipient an opportunity to come into compliance with the by-law without having to pay the administrative penalty as set out on the penalty notice.

The recipient has agreed to enter into a compliance agreement on the following terms:

1. For the purpose of becoming compliant with the by-law, the recipient will:

- a. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[enter detailed description of the activities to be performed by the recipient, which may include applying for the necessary permits, undoing any activity that brought caused them to be non-compliant, etc.]

2. The recipient will cause all of the works referred to in paragraph 1 to be completed in accordance with the following timeline:

- a. \_\_\_\_\_

[insert timeline for completion, in particular a final date by which compliance must be achieved]

3. The recipient will allow a Rural Municipality of Rosser By-law Enforcement Officer reasonable access to the premises between the hours of 8:30 am – 4:30 pm, Monday to Friday, for the purpose of inspecting progress in relation to the timeline contemplated in paragraph 2 [alternatively, include specific times when inspections will occur].
4. The By-law Enforcement Officer shall prepare a report at the completion of the compliance period indicating whether the By-law Enforcement Officer is of the opinion that the anticipated state of compliance has been achieved.
5. Upon completion of the timeline outlined above, the screening officer shall review the report, make a determination as to whether the recipient has complied with the terms of this agreement, and notify the recipient of that determination by regular letter mail to the following address:

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[insert address]

6. If the notice prepared by the screening officer indicates that the recipient has not complied with the terms of this agreement, the notice must include that the recipient, within 14 days of receipt of the notice, must either:
  - a. pay the full administrative penalty as required by the penalty notice; or
  - b. request that the determination be reviewed by an adjudicator by completing and returning an Adjudication Request Form and paying the \$25 adjudication fee.
7. The recipient agrees that, pursuant to *The Municipal By-law Enforcement Act*, an adjudicator has the authority to determine whether the recipient has complied with the terms of the agreement but not to vary, delete, or otherwise modify the terms of this agreement.

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Name:

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Name: Screening Officer Name