



## CITY OF DAUPHIN

### BYLAW 02/2017

# BEING A BYLAW OF THE CITY OF DAUPHIN TO PROVIDE FOR AN ADMINISTRATIVE PENALTY SCHEME FOR PARKING AND GENERAL BYLAW ENFORCEMENT

---

**WHEREAS** section 3(1) of the *Municipal Bylaw Enforcement Act* provides that a municipality may require that administrative penalties be paid in respect of the contravention of its bylaws;

**AND WHEREAS** the *Act* provides that municipal bylaws respecting parking may only be enforced by issuing Penalty Notices under the *Municipal Bylaw Enforcement Act*;

**AND WHEREAS** Council for the City of Dauphin deems it advisable in the public interest to provide for an Administrative Penalty scheme to enforce its Traffic Bylaw and as an additional means of encouraging compliance with other select bylaws;

**BE IT RESOLVED** that Council of the City of Dauphin, duly assembled, enacts as follows:

#### PART 1 – INTRODUCTION, PURPOSE AND INTERPRETATION

1. This bylaw may be cited as the **Municipal Bylaw Enforcement Act (MBEA) Enabling Bylaw**.
2. The following definitions apply to this bylaw:
  - a. **Act** means *The Municipal Bylaw Enforcement Act*.
  - b. **Adjudicator** means a person appointed under section 15 of the *Act*.
  - c. **Chief Administrative Officer** means the Chief Administrative Officer of the City of Dauphin.
  - d. **City** means the City of Dauphin.
  - e. **Council** means the Council of the City of Dauphin.
  - f. **Designated Officer** means a City of Dauphin employee named as a designated officer through bylaw of the City.
  - g. **Screening Officer** means an individual appointed under Item 11 of this bylaw
  - h. **Vehicle Owner** includes a person acting on behalf of the vehicle owner.
3. This bylaw contains the following Schedules:
  - Schedule A: Bylaw contraventions that may be dealt with by a Penalty Notice under the *Act*.
  - Schedule B: Penalty Notices for parking contraventions and other bylaw contraventions.
  - Schedule C: Bylaw contraventions that may be dealt with by a Compliance Agreement.

## **PART 2 – BYLAW CONTRAVENTIONS AND PENALTIES**

4. The bylaw contraventions described in Schedule A are hereby designated as bylaw 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 bylaw 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 Item 8 of this bylaw, a person to whom a Penalty Notice was delivered has not responded, the Municipality must deliver a Final Notice to the person with the information as outlined in Section 22 of the *Act*. 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 Bylaw 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 Items 33 – 35 of this bylaw. Periods within which affected persons must make payments or request a review or adjudication are determined under Item 35 of this bylaw.

## **PART 3 – 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.

## **PART 4 – REVIEW BY SCREENING OFFICER**

13. 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.
14. In the case of contraventions described in Schedule C, a request for review may include an indication that the person is prepared to enter into a Compliance Agreement.

15. 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.
16. 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,then 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, then the Screening Officer must review the Penalty Notice based on the information provided by the person in the request.
17. If after having agreed to a date and time and/or means of review the person fails to participate in it, then the Screening Officer must review the Penalty Notice based on the information provided by the person in the request.
18. 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 C, 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 bylaw despite exercising due diligence in attempting to comply.
19. 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.
20. 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 Item 34 of this bylaw) of the decision of the Screening Officer, unless the person requests adjudication under item 26 of this bylaw.

### **PART 5 – COMPLIANCE AGREEMENT**

21. The bylaw contraventions described in Schedule C are hereby designated as bylaw contraventions that may be dealt with by a Compliance Agreement.
22. A Compliance Agreement must:
  - a. describe the action to be taken to bring the person into compliance with the bylaw,
  - 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.
23. 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.
24. When a Screening Officer ends a Compliance Agreement, the person who entered into it may, within 14 days after receiving the notice under Item 23 of this bylaw:
  - 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.

### **PART 6 – ADJUDICATION SCHEME**

25. 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.
26. Within 14 days after receipt (or deemed receipt under Item 34 of this bylaw) 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.
27. 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*.
28. 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.
29. 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,
- then 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 City of Dauphin.

30. 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 Item 18d.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 City of Dauphin.

#### **PART 7 – CHIEF ADMINISTRATIVE OFFICER’S AUTHORITY**

31. The Chief Administrative Officer is authorized to do the following:
- a. pay invoices
    - i. for the costs and administration of the adjudication scheme under section 21(1) of the *Act*;
    - ii. for the remuneration and expenses of adjudicators;
  - b. refund an adjudication fee ordered to be refunded by an adjudicator; and
  - 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.

#### **PART 8 – DISCLOSURE OF INFORMATION**

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

#### **PART 9 – NOTICES AND TIME PERIODS**

33. 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 City), 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; or
    - 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; or
    - 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, then by sending it to the e-mail address provided by or shown in the communication from the person.

- 34. A notice or other document given under Item 33 of this bylaw 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.
  
- 35. 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.

**PART 10 – AMENDMENTS TO OTHER MUNICIPAL BYLAWS**

- 36. Traffic Bylaw 02/2009 is amended by:
  - a. Deleting Item 7 in Section 2 – Parking, and replacing it with:
    - 7. *Offences and Penalties:*
      - (1) *Whenever a vehicle is found parked or left in violation of any provision of this By-law, any Designated Officer, on finding such vehicle shall conspicuously affix a Penalty Notice - Traffic to such vehicle or by handing the Penalty Notice – Traffic to the owner or operator thereof, and such notice shall state the vehicle license plate number or Vehicle Identification Number, the date and time and place of violation, and briefly describe the alleged violation.*
  
      - (2) *Withstanding Sections 3(1), (2), (3), if the vehicle with a Penalty Notice – Traffic affixed has not been moved after a period of two (2) hours, thirty (30) minutes or fifteen (15) minutes, as the case may be, the Designated Officer may conspicuously affix a second Penalty Notice – Traffic to such vehicle and may continue to place a new Penalty Notice - Traffic on the vehicle for each two hours, thirty minutes or fifteen minutes as the case may be, until that the vehicle is moved.*
  
      - (3) *Any person liable to pay an Administrative Penalty shall pay the fees of which are due as outlined on the Penalty Notice – Traffic, including the option for a Discounted Administrative Penalty, or request for a Screening Officer review.*
  
  - b. Deleting Schedule K – Fine Payment

**PART 11 – TRANSITIONAL**

37. This bylaw shall come into force on the day after it received third and final reading.
38. Prosecutions of designated bylaw contraventions that were started before this bylaw comes into force shall continue under the procedures of the former bylaws and the *Summary Convictions Act*.

**DONE AND PASSED** by the Council of the City of Dauphin in regular session assembled, this 13<sup>th</sup> day February, 2017.



---

**Eric Irwin, Mayor**



---

**Brad D. Collett, CA, Chief Administrative Officer**

**READ A FIRST TIME** this 23<sup>rd</sup> day of January, 2017.  
**READ A SECOND TIME** this 13<sup>th</sup> day of February, 2017.  
**READ A THIRD TIME** this 13<sup>th</sup> day of February, 2017.

Municipal Bylaw Enforcement Act (MBEA) Enabling Bylaw 02/2017

**SCHEDULE A: OFFENCES**

The following are the bylaw contraventions which may be dealt with by a Penalty Notice under *The Municipal Bylaw Enforcement Act*, as well as the administrative penalties for each contravention, and the discounted amount for each contravention referred to in Item 6 of this bylaw:

Contravention – Parking Bylaw (02/2009 and amendments)	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days and not disputed)
Parking in Prohibited Zone	\$50.00	\$25.00
Parking within 3 metres of Fire Hydrant	\$50.00	\$25.00
Parking Blocking Driveway or Lane	\$50.00	\$25.00
Parking in No Stopping Zone	\$50.00	\$25.00
Parking in Lane	\$50.00	\$25.00
Parking in Wrong Direction	\$50.00	\$25.00
Parking on Boulevard	\$50.00	\$25.00
Parking within 1 metre of Driveway	\$50.00	\$25.00
Parking within 6 metres of Back Lane	\$50.00	\$25.00
Parking within 6 metres of Intersection	\$50.00	\$25.00
Parking within 9 metres of a Stop Device (mechanical or sign)	\$50.00	\$25.00
Parking Overtime	\$50.00	\$25.00
Parking In Loading Zone	\$50.00	\$25.00
Parking In Handicapped Parking Zone	\$75.00	\$50.00
Parking Over 48 Hours	\$50.00	\$25.00
Parking – Interfering with Snow Clearing	\$50.00	\$25.00
Unattached Trailer Parked on Street	\$50.00	\$25.00

Contravention – Noise Bylaw (13/2003)	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days and not disputed)
Excessive Noise	\$50.00	\$25.00

Contravention – Property Standards Bylaw (07/2004)	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days and not disputed)
Untarped Load	\$50.00	\$25.00
Load Resulting in Littering	\$50.00	\$25.00

Contravention – Off Road Vehicles Bylaw (01/2005)	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days and not disputed)
Unlawful Operation of an Off Road Vehicle	\$50.00	\$25.00

Contravention – Animal Control (3939)	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days and not disputed)
Excessive Barking/Howling	\$50.00	\$25.00
Dog or Cat at Large/Uncontrolled	\$50.00	\$25.00
Failure to Remove Excrement	\$50.00	\$25.00
Unlicensed Dog or Cat	\$50.00	\$25.00
More than Allowed Number of Dogs and/or Cats per Residence	\$50.00	\$25.00



**SCHEDULE B: PENALTY NOTICES**



**Penalty Notice - Traffic**

The undersigned, being a Designated Officer, says that (s)he has reasonable and probable grounds to believe, and does believe, that at Dauphin, Manitoba, on the:

			Penalty Notice #
Day	Month	Year	Time
Name/Plate/VIN			Date of Issue
Address			
Location & Details of Contravention			

did unlawfully commit the contravention indicated below:

Contravention	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days of issue and not disputed)
Parking in Prohibited Zone	\$ 50.00	\$ 25.00
Parking within 3 metres of Fire Hydrant	\$ 50.00	\$ 25.00
Parking Blocking Driveway or Lane	\$ 50.00	\$ 25.00
Parking in No Stopping Zone	\$ 50.00	\$ 25.00
Parking in Lane	\$ 50.00	\$ 25.00
Parking in Wrong Direction	\$ 50.00	\$ 25.00
Parking on Boulevard	\$ 50.00	\$ 25.00
Parking within 1 metre of Driveway	\$ 50.00	\$ 25.00
Parking within 6 metres of Back Lake	\$ 50.00	\$ 25.00
Parking within 6 metres of Intersection	\$ 50.00	\$ 25.00
Parking within 9 metres of a Stop Device (mechanical or sign)	\$ 50.00	\$ 25.00
Parking Overtime	\$ 50.00	\$ 25.00
Parking in Loading Zone	\$ 50.00	\$ 25.00
Parking in Handicapped Parking Zone	\$ 75.00	\$ 50.00
Parking Over 48 Hours	\$ 50.00	\$ 25.00
Parking - Interfering with Snow Clearing	\$ 50.00	\$ 25.00
Unattached Trailer Parked on Street	\$ 50.00	\$ 25.00
Other:		

contrary to City of Dauphin bylaws. Signed on the date of the violation at Dauphin, Manitoba.

Designated Officer Signature	<b>FINE PAYABLE WITHIN 30 DAYS OF DATE OF ISSUE</b>
Payable by mail, in person, or by after-hours drop box Cash, Debit, Cheque, or Money Order Monday - Friday 9:00 am to 4:30 pm	Payable to: <b>City of Dauphin</b> 100 Main Street South Dauphin, MB R7N 1K3 204-622-3200



**Penalty Notice - Other**

The undersigned, being a Designated Officer, says that (s)he has reasonable and probable grounds to believe, and does believe, that at Dauphin, Manitoba, on the:

			Penalty Notice #
Day	Month	Year	Time
Name/Plate/VIN			Date of Issue
Address			
Location & Details of Contravention			

did unlawfully commit the contravention indicated below:

Contravention	Administrative Penalty	Discounted Administrative Penalty (if paid within 14 days of issue and not disputed)
Excessive Noise - Noise Bylaw	\$ 50.00	\$ 25.00
Untarped Load - Property Standards Bylaw	\$ 50.00	\$ 25.00
Load Resulting in Littering - Property Standards Bylaw	\$ 50.00	\$ 25.00
Unlawful Operations of an Off Road Vehicle - Off Road Vehicle Bylaw	\$ 50.00	\$ 25.00
Excessive Barking/Howling - Animal Control Bylaw	\$ 50.00	\$ 25.00
Dog or Cat at Large/Uncontrolled - Animal Control Bylaw	\$ 50.00	\$ 25.00
Failure to Remove Excrement - Animal Control Bylaw	\$ 50.00	\$ 25.00
Unlicensed Dog or Cat - Animal Control Bylaw	\$ 50.00	\$ 25.00
More than Allowed Number of Dogs and/or Cats per Residence - Animal Control Bylaw	\$ 50.00	\$ 25.00
Other:		

contrary to City of Dauphin bylaws. Signed on the date of the violation at Dauphin, Manitoba.

Designated Officer Signature	<b>FINE PAYABLE WITHIN 30 DAYS OF DATE OF ISSUE</b>
Payable by mail, in person, or by after-hours drop box Cash, Debit, Cheque, or Money Order Monday - Friday 9:00 am to 4:30 pm	Payable to: <b>City of Dauphin</b> 100 Main Street South Dauphin, MB R7N 1K3 204-622-3200



## Penalty Notice

**Within 30 Days of Issuance, if you Disagree with this Penalty Notice:**

If the person disagrees with the issuance of the Penalty Notice, the person can request a review by the Screening Officer, in writing, to **City Hall - Screening Officer** at the address shown on the front of the Notice. The person is to include the following information on the request:

- Name
- Penalty Notice Number
- Contact Number or Email Address
- Preferred Method of Communication

**Within 30 Days of Issuance, if you admit responsibly but want an opportunity to comply:**

If a person admits responsibility for the contravention but desires an opportunity to bring themselves into compliance with the bylaw without having to pay the Administrative Penalty, the person can request a review by the Screening Officer, in writing, to **City Hall - Screening Officer** at the address shown on the front of the Notice, with the following information:

- Name
- Penalty Notice Number
- Contact Number or Email Address
- Preferred Method of Communication

The following contraventions may be resolved through a Compliance Agreement:

- Unlicensed Dog or Cat
- More than Allowed Number of Dogs and/or Cats per Residence

**Failing to Respond to this Penalty Notice:**

Failing to respond to this Penalty Notice may result in the municipality issuing a certificate showing the name of the person required to pay an administrative penalty or penalties, and the total amount of administrative penalties due and payable by the person. The Municipality may file the certificate with the Court of Queen's Bench. Once filed, the certificate becomes a judgment of the Court and may be enforced as a judgment.

**SCHEDULE C: BYLAW CONTRAVENTIONS THAT MAY BE DEALT WITH  
BY A COMPLIANCE AGREEMENT**

The following Bylaw Contraventions may be dealt with by a Compliance Agreement:

- Unlicensed Dog or Cat
- More than Allowed Number of Dogs and/or Cats per Residence