

CITY OF PORTAGE LA PRAIRIE
BY-LAW 17-8655
GENERAL AND PARKING BY-LAW ENFORCEMENT BY-LAW

WHEREAS section 3(1) of the Municipal By-law Enforcement 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 parking may only be enforced by issuing penalty notices under that Act and may not be enforced by a proceeding under the Summary Convictions Act;

AND WHEREAS Council for the City of Portage la Prairie 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 City of Portage la Prairie enacts as follows:

PURPOSE AND INTERPRETATION

1. The purpose of this by-law is to establish an administrative penalty scheme for the enforcement of certain by-law contraventions and an adjudication scheme to review screening officer decisions.

2. The following definitions apply to 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 5 of the Act.

“CITY” means the City of Portage la Prairie.

“SCREENING OFFICER” means the individual appointed herein and responsible for reviewing appeals to penalty notices.

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: Form of penalty notices.

Schedule C: Form of final notice.

Schedule D: 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 fourteen (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 thirty (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 thirty (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 by Council from time to time.

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.
15. Within fourteen (14) days after receiving the request, the screening officer must attempt to contact a person who has requested a review to acknowledge receipt of their request.
16. 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 D, 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. exceptional circumstances exist.
17. The screening officer must make a decision in writing within thirty (30) days of the request for review. After making the decision, the screening officer must give the affected person notice of the decision.
18. If the screening officer confirms or reduces the amount of the administrative penalty, the amount is due and payable within fourteen (14) days after receipt (or deemed receipt under section 33 of this by-law) of the decision of the screening officer, unless the person requests adjudication under section 25 of this by-law.
19. If the screening officer confirms or reduces the amount of the administrative penalty, the screening officer must inform the affected person that the amount is due and payable within fourteen (14) days after receipt (or deemed receipt under section 33 of this by-law) of the decision of the screening officer and that the affected person can request an adjudication under section 25 of this by-law.

COMPLIANCE AGREEMENT

20. The by-law contraventions described in Schedule D are hereby designated as by-law contraventions that may be dealt with by a compliance agreement.
21. 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 sixty (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.
22. 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 (7) days after the day it was mailed.
23. When a screening officer ends a compliance agreement, the person who entered into it may, within fourteen (14) days after receiving the notice under section 22 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

24. 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 to whether the terms of a compliance agreement were complied with.

25. Within fourteen (14) days after receipt (or deemed receipt under section 33 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.

26. 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.

27. 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.

28. 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.

29. 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 16 (d)(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.

CITY MANAGER'S AUTHORITY

30. The City Manager is authorized to do the following:

- a. pay invoices

- i. of the screening officer for remuneration and expenses as set by Council from time to time;
 - 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

31. Upon receipt of an adjudicator's decision, the City Manager must make the decision available to the public.

NOTICES AND TIME PERIODS

32. Where a notice or other document (other than a penalty or final notice) referred to in this by-law 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.
33. A notice or other document given under section 32 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 (7) days after the day it was mailed;

- c. sent by email is deemed to have been given or delivered two (2) days after the day it was sent.
34. 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.

AMENDMENTS TO OTHER MUNICIPAL BY-LAWS

35. This Part makes necessary amendments if required to the enforcement provisions of by-laws that contain designated violations.

TRANSITIONAL

36. This by-law shall come into force on the day it is passed.
37. 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 IN COUNCIL DULY THIS _____ DAY OF _____, 2017.

[Original signed by Mayor Irvine Ferris]
Mayor

[Original signed by Diane Van Aert]
Manager of Administration

Read a first time this 23rd day of January, 2017

Read a second time this 13th day of February, 2017.

Read a third time this 13th day of February, 2017.

**Schedule A
to By-Law 17-8655**

**BY-LAW CONTRAVENTIONS THAT MAY BE DEALT WITH
BY A PENALTY NOTICE UNDER THE ACT**

Traffic By-Law:

- Parking meter expired
- Parking in no parking zone
- Improperly parked at meter
- Parked within 3 meters of fire hydrant
- Parked in or within 3 meters of a crosswalk
- Parked in a loading zone
- Parked in no parking – snow removal zone
- Snow removal ban
- Parked in private driveway
- Parked in fire lane
- Parked in a disabled zone
- Any other stopping, standing or parking violation

**Penalties are set out in the Fees and Charges Schedule*

**Schedule B
to By-Law 17-8655**

PENALTY NOTICES

- Parking Summons (see following)



**CITY OF
PORTAGE LA PRAIRIE
VILLE DE
PORTAGE LA PRAIRIE**

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SUMMONS

OFFENCE NOTICE

The undersigned, being an Officer, says that he (she) has reasonable and probable grounds to believe, and does believe that at Portage la Prairie, Manitoba on the:

SOMMATION

AVIS D'INFRACTION

Le (la) soussigné(e) en qualité d'agent(e) déclare qu'il (elle) a des motifs raisonnables et probables de croire et il (elle) croit qu'à Portage-la-Prairie Province du Manitoba le

DAY-JOUR	MONTH -MOIS	YEAR -ANNÉE	TIME- HEURE
		2	.M.
Name and address of registered owner:		Nom et adresse du propriétaire inscrit:	
VEH.LJC.NO. NUMÉRO DE PLAQUE	MAKE • MARQUE	COLOUR - COULEUR	
LOCATION - EMBLACEMENT		METER NO. • NO DU PARCOMÈTRE	

did unlawfully commit a violation to wit:
à commis la violation suivante:

INCLUDE THIS NOTICE WITH YOUR PAYMENT
JOINDRE LE PRESENT AVIS AU PAIEMENT

01	Parking meter expired Durée indiquée au parcomètre écoulée	16	Parked in no parking -snow removal zone Garé en stationnement interdit -zone de déblayage de la neige
02	Parked In no parking zone Garé en stationnement interdit	20	Snow removal ban Interdiction d'enlèvement de neige
03	Improperly parked at meter Mal garé au parcomètre	22	Parked in private driveway Garé dans une allée privée
04	Parked within 3 meters of a fire hydrant Garé à moins de 3 mètres d'une bouche d'incendie	23	In fire lane Voie pour pompiers
05	Parked in or within 3 metres of a crosswalk Garé à ou moins de 3 mètres d'un passage piéton	26	Parked in a disabled zone Garé dans un stationnement pour personne handicapé
06	Parked in a loading zone Garé dans une zone de chargement		
25	Other Autre		

FINE PAYMENT SCHEDULE

Payment received within 14 days for all violations except 16, 20 & 23	\$ 10.00
Payment received within 14 days for violations 16, 20 & 23	\$30.00
Payment received after 14 days for all parking violations	\$40.00

CALENDRIER DES PAIEMENTS FINE

contrary to the City of Portage la Prairie Bylaw. Signed on the date of the violation at Portage la Prairie, Manitoba.
Contrairement à de la Ville de Portage la Prairie règlement. Signé à la date de l'infraction à Portage la Prairie, du Manitoba.

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Amount paid
Somme payee \$ _____ Init./Paraphe _____

VOLUNTARY PAYMENT OF FINE

Make your cheque or Money Order payable to the City of Portage la Prairie and mail to: City of Portage la Prairie, 97 Saskatchewan Ave. East, Portage la Prairie, MB R1N 0L8, or pay at City Hall between 9:00 a.m. and 4:30 p.m. Monday to Friday excluding Statutory holidays. Payment may be placed in the drop box at City Hall, paid online through the City's website, or by phone. See City website for details.

Note: Do not forward cash by mail.

If you wish to have your ticket reviewed by a Screening Officer, please visit City Hall at 97 Saskatchewan Ave, East, Portage la Prairie, or our website (www.city-plap.com) to obtain a copy of the Screening Officer review form.

Warning - Failure to remit your fine or to request a review by a Screening Officer may result in alternate action being taken to enforce the conviction.

PAIEMENT VOLONTAIRE DE L'AMENDE

Faire le chèque ou le mandat-poste à l'ordre de et envoyer à: La ville de Portage la Prairie, 97 Saskatchewan Ave. Est, Portage la Prairie, MB R1N 0L8, ou payer à l'hôtel de ville entre 9h00-16h30 du lundi au vendredi, sauf les jours fériés. Le paiement peut être placé dans la boîte de dépôt à l'hôtel de ville, ou payer en ligne via le site Web de la ville, ou par téléphone. Voir site de la ville pour les détails.

Note: Ne pas payer en espèces par courrier.

Pour une demande de révision de votre contravention par un officier de dépistage veuillez visiter l'hôtel de ville au 97 Saskatchewan Ave Est, ou notre site web (www.city-plap.com) pour obtenir le formulaire de demande d'une révision.

Avvertissement: Si vous ne payez pas votre amende ou n'avez pas demandé une révision par un officier de dépistage, une action subsidiaire peut être introduite contre vous afin que la condamnation puisse être mise à exécution.

**Schedule C
to By-Law 17-8655**

FINAL NOTICE

Final notices will be mailed out by way of letter, as follows:

This is your Final Notice that you owe \$ _____ to the City of Portage la Prairie for the above noted penalty notice. You have 30 days from the date of receiving this Final Notice to either pay the fine or to request a review by a screening officer by completing the enclosed Request of Review form.

Payments and requests for Review can be made in person or by mail to:

**City Hall
97 Saskatchewan Avenue East
Portage la Prairie, MB R1N 0L8
Office Hours: 9:00am-4:30pm, Monday to Friday**

If you do not pay the amount of the fine as set out above, or if you do not request a Review by a Screening Officer, the City of Portage la Prairie may take any and all steps necessary to collect the amount of the fine from you, as authorized by *The Municipal By-law Enforcement Act*.

**Schedule D
to By-Law 17-8655**

**BY-LAW CONTRAVENTIONS THAT MAY BE DEALT WITH BY A COMPLIANCE
AGREEMENT:**