BY-LAW 2174-17
OF
THE CITY OF WINKLER

A BY-LAW TO PROVIDE FOR AN ADMINISTRATIVE PENALTY SCHEME FOR PARKING AND GENERAL BY-LAW ENFORCEMENT

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 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 Winkler 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 Winkler enacts as follows:

PART I
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 and may be referred to as the "Enabling By-law".

2. The following definitions apply to this by-law:

   "Act" means the Municipal By-law Enforcement Act

   "City" means the City of Winkler

   "Council" means the Council of the City of Winkler "Municipal By-law Enforcement Regulation" means the Regulation to the Act

   "Screening Officer" – means a person appointed by a resolution of Council to be a Screening Officer within the meaning of the Act.

3. This by-law contains the following Schedules, which may be amended from time to time by resolution:

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

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

   Schedule C: Form of final notice.

   Schedule D: Payment of screening officer

   Schedule E: By-law contraventions that may be dealt with by a compliance agreement - None

PART II
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 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.

7. 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.

8. If, at the end of the period for responding to a penalty notice under section 6 of this by-law, a person to whom a penalty notice was delivered has not responded, the City must deliver a final notice to the person in the form set out in 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, and after which no further review of the penalty notice is permitted.

9. The City must deliver a penalty notice and a final notice in accordance with section 35 of this by-law. The delivery of other notices or documents by the City, a screening officer, or an adjudicator must be in accordance with section 36 of this by-law. The effective date of delivery of any notice is determined in accordance with section 37 of this by-law. Periods within which affected persons must make payments or request a review or adjudication are determined under section 38 of this by-law.

PART III
PENALTY NOTICE

10. A penalty notice shall be in the form set out in Schedule B.

11. A penalty notice must set out the following:

    a. the alleged by-law contravention in sufficient detail that the person who receives the notice would be able to identify the by-law and to respond to the alleged contravention;

    b. the amount of the administrative penalty, the amount of any early payment discount, and the consequences of failing to respond to the penalty notice;

    c. how to pay the administrative penalty or request a review by a screening officer and the applicable time limits;

    d. any other information required by the Regulations

PART IV
SCREENING OFFICER

12. Council shall by resolution appoint one or more screening officers.

13. A member of council or of a council committee is not eligible to be appointed as a screening officer.

14. A screening officer who is not an employee of the City must be paid remuneration and expenses as set out in Schedule D.

PART V
REVIEW BY SCREENING OFFICER

15. A request for review by a screening officer must be made in the manner set out in the penalty notice and must be 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.

16. 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.

17. 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 by written submission, by telephone, or in person, at the option of the person who has made the request.

18. 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, 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.

19. If, having agreed to a date, time, and means of review, 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.

20. 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 City; 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.

21. 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.

22. 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 37 of this by-law) of the decision of the screening officer, unless the person requests adjudication under Section 28 of this by-law.

PART VI
COMPLIANCE AGREEMENT

23. The by-law contraventions described in Schedule E are hereby designated as by-law contraventions that may be dealt with by a compliance agreement.

24. A compliance agreement must

    a. describe the action to be taken to bring the person into compliance with the by-law,

    b. identify 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.

25. 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 7 days after the day it was mailed.

26. When a screening officer ends a compliance agreement, the person who entered into it may, within 14 days after receiving the notice under section 25 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.

PART VII
ADJUDICATION SCHEME

27. 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.

28. Within 14 days after receipt (or deemed receipt under section 36 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.

29. 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.

30. 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.

31. 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, time, or means of the 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 City.

32. 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 or 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.

PART VIII
CITY MANAGER'S AUTHORITY

33. The City Manager 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; and

        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; and

    d. register a lien in the Personal Property Registry pursuant to section 24 of the Act

PART IX
DISCLOSURE OF INFORMATION

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

PART X
NOTICES AND TIME PERIODS

35. A penalty notice or final notice shall be delivered to the affected person as follows:

    a. by personal delivery;

    b. if the penalty notice is in respect of the parking of a vehicle, by leaving the penalty notice on the vehicle;

    c. by mailing a copy of the penalty notice by regular mail,

        i. if the penalty notice is for a contravention involving a vehicle, 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, which may be an address indicated in the records of the Registrar of Motor Vehicles, or

iii. if the person named in the penalty notice is a corporation, to the corporation's registered office;

d. in a manner prescribed by the Regulation.

36. 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 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;

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;

d. if the person has used e-mail to communicate with the screening officer or adjudicator, by sending it to the e-mail address provided by or shown in the communication from the person;

e. otherwise as permitted by the Act and the Regulation.

37. A penalty notice or final notice delivered under section 35 or a notice or other document is delivered under section 36, delivery is deemed to be effected as follows:

a. A notice delivered personally is deemed to have been given or delivered on the day it was delivered;

b. A notice mailed is deemed to have been given or delivered to the person 7 days after the day it was mailed;

c. A notice, other than a penalty notice or a final notice, sent by email is deemed to have been given or delivered 2 days after the day it was sent.

38. 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 XI
AMENDMENTS TO OTHER MUNICIPAL BY-LAWS

TRANSITIONAL

39. This by-law shall come into force on February 6, 2017.

40. 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 City of Winkler, in open meeting, duly assembled, this 24th day of January, 2017.

Mayor

City Manager

Read a first time this 10th day of January, 2017

Read a second time this 24th day of January, 2017

Read a third time this 24th day of January, 2017

Schedule "A" to By-law 2174-17

Fines for Parking and related Offences

Provision of By-Law No.2176-17	Contravention	Administrative Penalty $	Discounted Amount $
S 2.2	Obstruct during maintenance hours	80.00	40.00
S 3.1	Parking where prohibited	80.00	40.00
S 3.2	Obstructing entrance to lane or drive	80.00	40.00
S 3.3	Within 3M of intersection	80.00	40.00
S 3.4	Parking opposite fire hydrant	80.00	40.00
S 3.5	Parking within 100M of fire or emergency scene	80.00	40.00
S 3.6	Gross vehicle weight over 6804 kg	80.00	40.00
S 3.7	Parking on residential driveways	80.00	40.00
S 3.8	Commercial trucks travelling on non-truck route	80.00	40.00
S 3.9	48 consecutive hours	80.00	40.00
S 3.10	Obstructing sidewalk or pathway	80.00	40.00
S 3.11	Parking in a designated parking space	80.00	40.00
S 4.1	Parallel Parking	80.00	40.00
S 4.3	Stopping at stop sign	80.00	40.00
S 5.1	Parking in a street	80.00	40.00
S 5.2	Obstructing traffic when not loading or unloading	80.00	40.00
S 6.1	Deposit snow from private properties	80.00	40.00
S 7.1	Traffic regulations on private & public parking lots	80.00	40.00
Derelict Vehicle By-Law 2189-17			
S 4	Derelict vehicle on private property	300.00	N/A
S 5	Derelict vehicle not stored properly	150.00	N/A
S 5	Permit expired	150.00	N/A

Smoking By-Law 2215-18		**Individual Penalty**	**Corporation Penalty**
S 3(a)	Smoke or Vape in outdoor seating area	$150.00	N/A
S (3)(a)(i)	No signage for outdoor seating area	$150.00	$300.00
S 3(a)(ii)	Owner permits smoking or vaping	$250.00	$500.00
S 4(a)	Smoke or Vape within 15 meters of a municipal public building	$150.00	N/A
S 4(b)	Smoke or Vape within 15 m. of pools, spray pads or spray parks	$150.00	N/A
S 4(c)	Smoke or Vape in enclosed public place	$150.00	N/A
S 4(d)	Smoke or Vape in transit shelter or bus stop	$150.00	N/A
S 4(e)	Smoke or Vape in vehicle owned or leased by City	$150.00	N/A
S 4(f)	Smoking or vaping within 15 m. of athletic fields or hockey rinks	$150.00	N/A
S 4(g)	Smoking or vaping on playgrounds & skate parks	$150.00	N/A
S 5	Smoking, Vaping, or Consumption of Cannabis in public	$300.00	N/A
Outdoor Solid Fuel Burning Appliance By-Law 2199-18		**Individual Penalty**	**Corporation Penalty**
S 10(a)	Any Contravention of By-Law	1st Offence: $250.00 2nd Offence: $500.00	1st Offence: $500.00 2nd Offence: $750.00

Vehicle for Hire By-Law 2204-18		**Penalty**	
S 4(1)	Provide transportation services without a license	$500.00	
S 4(2)	Vehicle not licensed and used for transportation services	$1000.00	
S 6(1)(a)	Insurance and/or registration not valid	$1000.00	
S 6(1)(b)	Failure to undergo prescribed inspection	$1000.00	
S 6(1)(c)	Failure to maintain in good condition	$500.00	
S 6(1)(d)	Other than owner of vehicle operating PTP vehicle	$1000.00	
S 6(1)(e)	Failure to display By-Law license appropriately	$500.00	
S 6(1)(f)	Operating a part time vehicle license in excess 5/7	$1000.00	
S 6(1)(g)	Failure to install winter tires	$1000.00	
S 7(1)(a)	Failure of having correct driver's license	$500.00	
S 7(2)	Failure to notify City of Winkler of ineligibility to hold license	$1000.00	
S 7(3)	Individual driving a vehicle for hire without appropriate licenses	$500.00	
S 7(4)(e)	More than allowed number of drivers operating	$500.00	
S 8(1)(c)	Failure to provide all forms of payment	$500.00	
S 8(1)(f) a	Failure to display current fare schedule	$500.00	

S 8(1)(f) b	Failure to display complaint process	$500.00	
S 8(1)(f) c	Failure to display process to claim property left in taxi	$500.00	
8(1)(g)	Failure to have a certified meter in accordance with By-Law	$1000.00	
S 8(1)(h)	External light inoperable in accordance with By-Law	$500.00	
S 8(1)(j)	Failure to take most economical route	$1000.00	
S 8(1)(k)	Charging more than the schedule fare allows	$1000.00	
S 8(2)(a)	Limousine accepting a fare form being hailed	$500.00	
8(2)(c)	Failure to provide all forms of payment	$500.00	
8(2)(e)	Failure to provide upfront pricing	$500.00	
8(3)(a)	PTP accepting fare from being hailed	$500.00	
8(3)(b)	PTP accepting fare from taxi ranks	$500.00	
8(3)(d)	Failure to comply with App conditions of hire	$500.00	

Schedule “B” to By-law 2174-17
Forms of Penalty Notice

Parking Contraventions

CITY OF WINKLER
VILLE DE WINKLER

Manitoba

N⁰.

PENALTY NOTICE

The undersigned, being a Peace Officer, By-Law Enforcement Officer or Community Safety Officer, has reasonable and probable grounds to believe, and does believe that at Winkler, Manitoba on the:

AVIS D'INFRACTION

Le/la soussigné(e), en qualité d'agent(e) de la paix ou d'agent(e) d'application de la loi a des motifs raisonnables de croire que dans la ville de Winkler le :

DAY - JOUR	MONTH - MOIS	YEAR - ANNÉE	TIME - HEURE .M.

Name and address/Nom et adresse: Owner/Propriétaire ☐ Driver/Conducteur ☐

DL P/C

D.O.B. D.D.N. Ph: Tél:

VEH. LIC. N⁰. - N⁰ DE PLAQUE	MAKE-MARQUE	COLOR-COULEUR

LOCATION - EMPLACEMENT

did unlawfully commit a violation to wit:
a commis l'infraction suivante:

	Parking in a no parking area Stationnement dans une zone de stationnement interdit
	Parking longer than 48 hours Stationnement de plus de 48 heures
	Parking left side to curb Stationnement interdit à gauche de la chaussée
	Designated parking only Stationnement pour handicapés seulement
	Parking so as to obstruct traffic Stationnement dans un lieu qui entrave la bonne circulation
	Park Truck over 6804 Kg / Trailer on street Camions plus de 6804 kg et remorques, laisse sur la rue
	Loitering D élit de vagabondage
	Other Autre

Contrary to By-Law No 2176-17, signed on the date of the violation at Winkler, Manitoba.
Contraire au règlement n° 2176-17, signé la date de l'infraction dans la ville de Winkler dans la province du Manitoba.

INFORMANT - DÉNONCIATEUR	NO.

Penalty Amount: $80.00 Discount Amount $40 (If paid within 14 days after delivery of notice.

Montant de l'infraction: 80,00$. Montant réduit: 40,00$ (si le paiement est fait à l'intérieur de 14 jours après l'envoi de l'avis)

INCLUDE THIS NOTICE WITH YOUR PAYMENT.
JOINDRE CET AVIS À VOTRE PAIEMENT

PAYMENT DEFAULTED - DÉFAUT DE PAIEMENT	FINE PAID - AMENDE PAYÉE

PAYMENT OF FINE

Make your cheque or money order payable to the:
City of Winkler
and mail to: 185 Main St.
Winkler, Manitoba R6W 1B4
or pay at: Winkler Civic Centre, 185 Main St., Winkler, between 9:00 a.m. and 5:00 p.m. Monday through Friday

Note: Do not forward cash by mail

You may request a review of the penalty by a screening officer in writing within 30 days after delivery of the penalty notice. 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.

WARNING

Failure to respond will result in further action being taken under the Municipal Enforcement By-Law.

PAIEMENT DE L'AMENDE

Faire un paiement par cheque ou par mandat à l'ordre de
Ville de Winkler
et envoyer à : Ville de Winkler 185 rue Main
Winkler, Manitoba, R6W 1B4
ou payez en personne au : Winkler Civic Centre, 185 rue Main, entre 9h et 17h, un jour ouvrable

N.B. : N'envoyez pas d'argent comptant par la poste

Vous pouvez demander une révision de l'infraction par un(e) agent(e) de dépistage par écrit à l'intérieur de 30 jours après l'envoi de l'avis d'infraction. La demande doit inclure un numéro de téléphone et / ou une adresse courriel, en indiquant la méthode préférée de communication avec l'agent(e) de dépistage afin de s'organiser pour la révision.

AVERTISSEMENT

Si vous ne répondez pas à cet avis, des mesures avancées seront prises sous le réglement de l'application municipale.

REMARKS / REMARQUES

Schedule "B" to By-law 2174-17

Non-Parking Contraventions

Date

To
Address

Re: PENALTY NOTICE
Violation of City of Winkler By-law No. _____, By-law Name_____

CONTRAVENTION: This Penalty Notice is to inform you that I believe you are in violation of the City of Winkler By-law No. _____ as follows: [insert a brief description of the violation and of the section(s) of the By-law violated].

_____

_____

As a result of this violation you are subject to the following penalty: $_____

You have until [month, day, year] ("Deadline"), to **EITHER**:

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

EARLY PAYMENT DISCOUNT: The penalty amount will be reduced to $_____ if paid in full on or before [month, day, year]. Otherwise, you must pay the full penalty amount.

PAYMENT: Payment is to be made by cash or debit.

REQUEST FOR REVIEW: A request for review by a screening officer must be made in writing, and include a telephone number and/or email address, with an indication of the preferred means of communication to make arrangements for the review. If you request a review, the screening officer will review the circumstances that resulted in this 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 providing for you to 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 City of Winkler will, after final notice to you, take proceedings against you to collect the penalty amount.

_____
By-law Enforcement Officer

Schedule "C" to By-law 2174-17

Date

To
Address

Re: FINAL NOTICE
Violation of City of Winkler By-law No. ____, [name of by-law]

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 City of Winkler By-law No. ____ [insert a brief description of the violation and of the section(s) of the By-law violated].

As a result, you have until [month, day, year] ("Deadline") to **EITHER**:

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

PAYMENT: Payment must be made by cash or debit.

REQUEST FOR REVIEW: A request for review by a screening officer must be made in writing, and include a telephone number and/or email address, with an indication of the preferred means of communication to make arrangements for the review. If you request a review, the screening officer will review the circumstances that resulted in this 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 providing for you to 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 City of Winkler taking collection proceedings against you to collect the penalty amount.

_____
By-law Enforcement Officer

Schedule “D” to By-law 2174-17
Screening Officers

Jody Penner, Screening Officer	Included in City Salary
Wendy Klassen, Screening Officer	Included in City Salary

Schedule "E" to By-law 2174-17

By-Law Contraventions that may be dealt with by a compliance agreement – None