

RURAL MUNICIPALITY OF ELTON

BY-LAW NO. 1637

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ELTON TO ESTABLISH AND REGULATE ENFORCEMENT AND PENALTIES

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

AND WHEREAS Council for the Rural Municipality of Elton deems it advisable in the public interest to provide for an administrative penalty scheme;

NOW THEREFORE, the Council of the Rural Municipality of Elton in regular session assembled enacts as follows:

PART I: DEFINITIONS

1. DEFINITIONS

(a) Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in the Legislative Standards By-law.

(b) In this by-law:

"ACT" means The Municipal By-law Enforcement Act.

"ADJUDICATOR" means a person appointed under the Act.

"AUTHORITY HAVING JURISDICTION" means The Rural Municipality of Elton and its designated agents, including but not limited to the Building Safety Manager and, for Orders under the Manitoba Fire Code, The Fires Prevention Act (Manitoba), or the Fire Prevention By-law, the Fire Chief, or their respective designates.

"CAO" means the Chief Administrative Officer;

"COUNCIL" means The Rural Municipality of Elton Council;

"DESIGNATED OFFICER" means that Officer appointed by the CAO and delegated responsibility for ensuring the provisions of this By-law are followed.

"FEE SCHEDULE" means the fees set out in the current Schedule of Fees as set out in Schedule "A" of this bylaw.

"INFORMATION OFFENCE NOTICE" means the compliance ticket issued by an Officer for a violation under Part 2 of The Provincial Offences Act."

"ORDER TO REMEDY" means an Order issued for non-compliance with provisions of any Municipal by-laws.

"PENALTY NOTICE" means the compliance ticket issued by an Officer for a violation under the Act."

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

PART II: VIOLATION NOTICES

2. Any person who contravenes, or does not comply, or improperly complies, or only partly complies with any provision of a by-law of the Municipality commits an offence and is subject to penalty. Such penalty shall follow the process of an Order to Remedy, a Penalty Notice, or an Offence under the Provincial Offences Act.

3. The by-law contraventions and administrative penalties for each contravention described in Schedule "A" are hereby designated as by-law contraventions that may be dealt with by a penalty notice.

4. The period within which a person may pay the administrative penalty or request a review by a screening officer is hereby set at 30 days. The Authority having Jurisdiction may elect to issue an Order to Remedy for violations involving multiple areas of concerns, and particularly for life safety or health related concerns.

5. Failure to comply with an Order to Remedy within the established timeline is deemed an offence and is subject to pre-set fines set out in Schedule "A", as well as related Court Costs and Surcharges.

PART III: APPEAL TO SCREENING OFFICER

6. The Chief Administrative Officer may appoint Screening Officers as required to meet the administrative needs of this by-law.

7. 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) Reduce the amount of the administrative penalty, or issue a warning without imposing any penalty where the circumstances surrounding the contravention are such that a reduction of the amount of the administrative penalty would be in the public interest.
 - (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:
 - a. The contravention did not occur as alleged;
 - b. The penalty notice does not comply with the content requirement of the notice as set out in 6(2) of the Act;
 - c. The contravention was necessary in order to address immediate health and safety concerns.
8. 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 15 days of the penalty notice being issued.
9. Where a Screening Officer makes a decision to uphold the full amount of the administrative penalty or reduce the amount of the administrative penalty, the person may request a review of the decision by an adjudicator by notice in writing to the Chief Administrative Officer mailed or delivered to the municipal office accompanied by a \$25 adjudication fee.
10. The Screening Officer has the authority to grant, for good and sufficient reason and with written agreement, additional time for the person to pay the administrative penalty.

PART IV: ADJUDICATION

11. 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.
12. A fee as set out in Schedule "A" is imposed for a request for an adjudication.
13. When the place, date and time for an adjudication has been determined, a Designated Officer must give notice of the date, time and place to the person requesting the adjudication.
14. 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 Municipality, a minimum of 48 hours in advance, and must include either:
 - (a) At least 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 Officer to arrange with the person a date for a rescheduled adjudication.

If the request for reschedule was not received a minimum of 48 hours in advance, the adjudication must proceed as originally scheduled.
15. A person may only request that an adjudication be rescheduled one time for the same penalty notice.
16. Adjudications must be held in accordance with, and the Adjudicator must follow, the rules set out in sections 16 to 20 of the Act.
17. An Adjudicator has the powers granted in sections 19, 20, 21, and 25 of the Act.
18. If the Adjudicator upholds the full amount of the administrative penalty or reduces the amount of the penalty, the amount of the administrative penalty, as determined by the Adjudicator, is immediately due and payable to the Rural Municipality of Elton.

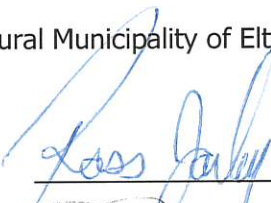
PART V: ENFORCEMENT

19. The Designated Officer 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 Officer 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 Municipality.


PART VI: PROCEDURAL

20. Where a notice or other document referred to in this by-law is required to be given to a person (other than the Municipality), 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 Municipality, by sending it to the email address or other electronic address provided by or shown in the communication from the person.
21. A notice or other document that is:
- (a) Delivered personally is deemed to have been given on the day it was delivered;
 - (b) Mailed to the Municipality under this by-law is deemed to have been given to the person or received by the Municipality seven (7) days after the day it was mailed.
 - (c) Sent electronically to the Municipality under this by-law is deemed to have been given two (2) days after it was sent.
22. This by-law shall come into full force and take effect upon the passage thereof.

DONE AND PASSED by the Council of The Rural Municipality of Elton duly assembled this 8th day of December, 2020.



ROSS FARLEY, REEVE



SHAWNA PAULSEN, CHIEF ADMINISTRATIVE OFFICER

Read a First time this 10th day of November 2020.
Read a Second time this 8th day of December 2020.
Read a Third time this 8th day of December 2020.

SCHEDULE "A" to Compliance By-Law

TICKET CODE	COMPLIANCE VIOLATION	POLICY or BYLAW NO.	FEE
	Adjudication Fee		\$25.00
	Solid Waste and Collection Disposal Violation – 1 st Violation	1454	\$250.00
	Solid Waste and Collection Disposal Violation – 2 nd Violation	1454	\$500.00
	Solid Waste and Collection Disposal Violation – 3 rd and subsequent violation	1454	\$1000.00
	Animal Control - 1 st Offense	1565	Min. \$50.00 – Max. \$500.00
	Animal Control - 2 nd Offense	1565	Min. \$100.00 – Max. \$1000.00
	Animal Control - Interference or Obstruction of Duties of an Animal Control Officer	1565	Min. \$500.00 – Max. \$1000.00
	Fines - 1 st Offense Any By-law or Policy that does not clearly state the amount of the fine	62-2017	\$250.00
	Fines - 2 nd Offense Any By-law or Policy that does not clearly state the amount of the fine	62-2017	\$500.00
	Fines - 3 rd Offense Any By-law or Policy that does not clearly state the amount of the fine	62-2017	\$1000.00
	Nuisance By-law	1375	Min. \$500.00 – Max. \$2000.00
	Fire Control By-law – 1 st Offense	1455	\$250.00
	Fire Control By-law – 2 nd Offense	1455	\$500.00
	Fire Control By-law – 3 rd Offense	1455	\$1000.00
	Fire Control By-law – Interferes or Obstruction of Duties of a Designated Officer	1455	Min. \$250.00 – Max. \$1000.00
	Civic Addressing Infraction of the provisions By-law 1462	1462	\$500.00
	Fire Prevention & Emergency Service By-law Person who contravenes, disobeys, refuses or neglects to obey.	1303	Min. \$100.00 – Max. \$1000.00
	Fire Prevention & Emergency Service By-law Person who hinders or obstructs the Authority Having Jurisdiction	1303	Min. \$100.00 – Max. \$1000.00