THE CITY OF WINNIPEG

BY-LAW No. 59/2016

A By-law of THE CITY OF WINNIPEG to allow enforcement of City by-laws under *The Municipal By-law Enforcement Act*

WHEREAS *The Municipal By-law Enforcement Act* has been enacted by the Manitoba Legislature but not yet proclaimed;

AND WHEREAS *The Municipal By-law Enforcement 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 *The Municipal By-law Enforcement Act* further provides that other by-law contraventions may be enforced by issuing penalty notices under that Act if the municipality has designated the contravention in a by-law;

AND WHEREAS *The Municipal By-law Enforcement Act* further provides for a number of other matters that must be dealt with in a by-law;

NOW THEREFORE, THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

PART 1
INTRODUCTORY PROVISIONS

Short title

1 This By-law may be cited as the Municipal By-law Enforcement Act (MBEA) Enabling By-law.

Definitions and interpretation

2 The following definitions apply in this by-law:

"Act" means *The Municipal By-law Enforcement Act*, S.M. 2013, c.47, Sch. B.

"Charter" means *The City of Winnipeg Charter*.

"Chief Administrative Officer" means the Chief Administrative Officer of the City appointed pursuant to *The City of Winnipeg Charter*.

"City" means the City of Winnipeg continued under section 8 of the Charter.

"Council" means the council of the City.

"designated employee" means the Chief Administrative Officer of the City and, where the Chief Administrative Officer has delegated a function, duty or authority under this By-law, means employees or agents of the City acting pursuant to that delegation.

"screening officer" means an individual appointed under section 11.

"vehicle owner" includes a person acting on behalf of the vehicle owner.

PART 2
BY-LAW CONTRAVENTIONS AND PENALTIES

By-law offences designated

3 The by-law contraventions described in Schedule A to this By-law are hereby designated as by-law contraventions which may be dealt with by a penalty notice under the Act.

Administrative penalties set

4 The administrative penalties described in Schedule A to this By-law for each by-law contravention identified in Schedule A are hereby set.

Early payment discount

5 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 payment is made within 14 days of service of the penalty notice as provided for in clause 3(3)(a) of the Act.

PART 3
PENALTY NOTICES

Content and form of penalty notices

6(1) A penalty notice must contain the information required by section 6 of the Act.

6(2) A penalty notice may be in any form permitted by the Act and approved by the designated employee. The designated employee is authorized to approve more than one form of a penalty notice.

Time limitation for issuing penalty notices

7 A penalty notice may not be issued if more than the period of time set out in section 8 of the Act has elapsed after the designated by-law contravention for which it is issued is alleged to have occurred.

Delivery of penalty notices
8 A penalty notice must be delivered as permitted by section 9 of the Act or by regulations made pursuant to the Act.

Responding to penalty notice
9 The person to whom a penalty notice is delivered may, within 30 days after the date of service of the penalty notice, either

(a)Pay the administrative penalty; or

(b)Request a review by a screening officer.

Final notice required
10 The designated employee must ensure that a final notice as required by section 22 of the Act is delivered to a person who fails to respond to a penalty notice in compliance with section 9.

PART 4
SCREENING OFFICERS

CAO to appoint screening officers
11 The Chief Administrative Officer, or an employee of the City to whom he or she has delegated this authority, may appoint screening officers as required to meet the administrative needs of this By-law.

Options available to screening officers
12(1) 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) If authorized under subsection (2), reduce the amount of the administrative penalty to as little as $1.00, or issue a warning without imposing any penalty;

(c) If authorized under Part 5 of this By-law, enter into a compliance agreement with the person; or

(d) Cancel the penalty notice where

(i) The contravention did not occur as alleged;

(ii) The penalty notice does not comply with subsection 6(2) of the Act;;

(iii) In the case of a parking contravention, the vehicle owner can show that the vehicle was stolen or otherwise being used without the owner’s permission at the time of the contravention;

(iv) The contravention was the result of a medical emergency or for some other reason was necessary in order to address immediate health and safety concerns.

12(2) The screening officer may reduce the amount of the administrative penalty where

(a) In the case of a parking contravention

(i) There would have been no contravention if a permit, licence, ticket or other document had been properly displayed on or within the vehicle, and the vehicle owner can show that, although the permit, licence, ticket or other document was not properly displayed, it had been issued and was valid and applicable to the vehicle at the time of the contravention;

(ii) The vehicle owner can show that the contravention was a result of a minor medical emergency;

(iii) The vehicle owner can show that the person in respect of whom the penalty notice was issued was undergoing a personal tragedy which played a role in the contravention and a reduction of the amount of the administrative penalty is in the public interest;

(iv) the vehicle owner can show both that the contravention was a result of mechanical problems and that they reasonably prevented the person in respect of whom the penalty notice was issued from complying with the by-law despite the fact that he or she exercised due diligence in attempting to comply;

(b) The circumstances surrounding the contravention are such that a reduction of the amount of the administrative penalty would be in the public interest;

Full penalty to be considered

13 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 14 days of the penalty notice being issued.

Screening officer must give written reasons

14(1) Where a screening officer makes a decision to uphold the full amount of the administrative penalty or reduce the amount of the administrative penalty, he or she must give a copy of the written reasons for the decision to the person who requested the review in accordance with section 30.

14(2) Unless the screening officer has decided to cancel the penalty notice, the written reasons given by a screening officer must be accompanied by a notice to the person that they must, within 7 days after the person has received or is deemed to have received the written reasons, either

(a) Pay the administrative penalty, or pay the reduced amount if the screening officer has reduced it; or

(b) In accordance with Part 6, request an adjudicator to review the screening officer's decision.

Administrative penalty due and payable

15 Unless a person requests an adjudication under Part 6 or enters into a Compliance Agreement under Part 5, or unless the screening officer grants additional time for the person to pay the administrative penalty, the amount of the administrative penalty as decided by the screening officer is due and payable to the City of Winnipeg seven days after the written reasons have been received or are deemed to have been received by the person to whom the penalty notice was issued.

PART 5
COMPLIANCE AGREEMENTS

Implications of compliance agreement

16 A screening officer and a person who has been served with a penalty notice may enter into a compliance agreement in order to give the person an opportunity to bring themselves into compliance with the by-law without having to pay the administrative penalty set out in the penalty notice. A person who agrees to enter into a compliance agreement with a screening officer is deemed to have admitted responsibility for the contravention alleged in the penalty notice.

Circumstances in which compliance agreement is authorized

17 A screening officer is not authorized to enter into a compliance agreement unless they have received comments about the proposed compliance agreement from the designated employee or the head of the City department, division, branch or other administrative unit that issued the penalty notice.

Written agreement

18 A compliance agreement must be in writing and the screening officer must give a copy to the person who has entered into it.

No penalty if person complies with agreement

19 A person who has entered into a compliance agreement is not required to pay the administrative penalty set out in the penalty notice if the person complies with the terms of the agreement.

Agreement ended if no compliance

20 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 in compliance with section 30.

Options after agreement ends

21(1) When a screening officer ends a compliance agreement, the person who entered into it may, within 14 days after receiving notice that the agreement has ended

(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.

21(2) If the person does not request adjudication within 14 days after receiving notice, the administrative penalty set out in the penalty notice is immediately due and payable to the City.

PART 6
ADJUDICATION

Adjudication scheme established

22 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.

Time period for requesting adjudication

23(1) A person who wishes to have an adjudicator review a screening officer's decision to confirm or reduce the administrative penalty set out in the penalty notice must request the review within 7 days after receiving the screening officer's written reasons for their decision.

23(2) A person who wishes to have an adjudicator make a determination of a dispute as to whether the terms of a compliance agreement were complied with must request the adjudication within 14 days of receiving notice of the screening officer's decision to end the compliance agreement.

Adjudication fee

24 A request for adjudication under section 21 is not complete, and shall not be processed, until an adjudication fee has been paid to the City. The adjudication fee is established as the maximum amount permitted by clause 3(3)(e) of the Act.

Scheduling and rescheduling adjudications

25(1) When place, date and time for an adjudication has been determined, a designated employee must give notice of the date, time and place to the person requesting the adjudication.

25(2) 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 City, and must include either

(a) at least three 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 e-mail address, that will allow a designated employee to arrange with the person a date for a rescheduled adjudication.

25(3) A $25.00 fee is imposed for a request for a rescheduled adjudication unless the request is received by the City within 7 days of the notice being given to the person.

25(4) A request for a rescheduled adjudication must be received by the City and the fee imposed in subsection (3) paid at least 48 hours in advance of the scheduled adjudication. If they are not received prior to this time, the adjudication must proceed as originally scheduled.

25(5) Other than requests that are received by the City within 7 days of the notice being given to the person, a person may not request that an adjudication be rescheduled more than once for the same penalty notice.

25(6) When a request for a rescheduled adjudication has been received by the City, the designated employee must reschedule the adjudication

(a) to a date provided by the person under clause (2)(a); or

(b) if the person has provided contact information under clause (2)(b), to a date arranged with the person after the designated employee has contacted the person.

If a designated employee has made unsuccessful but reasonable efforts to contact the person at the contact information provided under clause (2)(b), the designated employee may reschedule the adjudication on any suitable date.

25(7) A designated employee must give notice of the date, time and place of a rescheduled adjudication to the person requesting the rescheduled adjudication.

Adjudication hearings

26 Adjudications must be held in accordance with, and the adjudicator must follow, the rules set out in sections 16 to 20 of the Act.

Powers of adjudicators

27 An adjudicator has the powers granted in sections 20, 21 and 25 of the Act.

Time for payment of administrative penalty

28(1) 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 unless the adjudicator allows time for payment under subsection (2).

28(2) At the request of the person to whom the penalty notice was delivered, the adjudicator may allow up to 7 days for payment of the administrative penalty or reduced amount of the penalty, as the case may be.

PART 7
GENERAL

Powers of designated employee

29 The designated employee 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 employee 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

(i) accepting payments of administrative penalties;

(ii) accommodating requests for review by screening officers;

(iii) accommodating requests for review by adjudicators;

(iv) accommodating requests for rescheduling of adjudications;

(c) take actions to collect administrative penalties owed to the City.

Provision of notices and other documents

30(1) Where a notice or other document referred to in this By-law is required to be given to a person (other than to the City), unless this By-law provides otherwise, the notice or other document may be given

(d)by delivering it personally to the person;

(e)by mailing a copy by regular mail or delivering a copy

(i) 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;

(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

(f) 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

(g) if the person has used e-mail or another method of electronic communication in communication with the City, by sending it to the e-mail address or other electronic address provided by or shown in the communication from the person.

30(2) A notice or other document that is

(a) delivered personally is deemed to have been given on the day it was delivered;

(b) mailed under subsection (1) or mailed to the City under this By-law is deemed to have been given to the person or received by the city seven days after the day it was mailed;

(c) sent electronically under clause (1)(d) or sent electronically to the City under this By-law is deemed to have been given two days after the day it was sent.

PART 8
CONSEQUENTIAL REPEALS AND AMENDMENTS AND COMING INTO FORCE

Consequential by-law repeals and amendments

31(1) The Voluntary Payment of Fines By-law No. 789/74 is repealed.

31(2) The Streets By-law No. 1481/77 is amended by striking out the following cells in the table set out in Schedule H:

s. 2.05	*Repair vehicle in street*	*$100.00*	*$75.00*
s. 2.15	*Place or leave unattended electrical wire, cord or cable on or across City street*	*$100.00*	*$75.00*

31(3) The Traffic By-law No. 1573/77 is amended

(a) by repealing sections 54 and 55;

(b) by repealing section C.1 of Schedule 10;

(c) by repealing sections C.4 and C.5 of Schedule 12;

(d) by repealing section C.4 of Schedule 13.

31(4) The Parking Meter By-law No. 6547/95 is amended by repealing sections 15 and 16, and section 4 of Schedule "F".

31(5) The Private Parking By-law No. 6549/95 is amended by repealing subsections 4(2) and (3).

31(6) The Disabled Persons Parking By-law No. 7171/98 is amended by repealing subsection 2(2) and sections 3 and 4.

Coming into force

32 This By-law comes into force on the day that *The Municipal By-law Enforcement* Act, SM 2013, c. 47, Sch. B comes into force.

DONE AND PASSED this 18th day of May, 2016.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Chief Operating Officer
Winnipeg Parking Authority

Approved as to form:

_____
For Director of Legal Services/City Solicitor

THIS IS SCHEDULE A TO THE
MUNICIPAL BY-LAW ENFORCEMENT ACT (MBEA)
BY-LAW ENABLING BY-LAW

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 Part 2 of the By-law:

Contravention	**Administrative Penalty**	**Discounted amount**	**By-law**	**Section**
Parked or stopped in disabled parking space without displaying valid permit	$300.00	$150.00	Disabled Persons Parking By-law No. 7171/98	s. 2(1)
Parked or stopped in fire lane	$300.00	$150.00	Fire Prevention By-law 150/2004	s. 50.1(2)
Parked – meter expired	$60.00	$30.00	Parking Meter By-law No. 6547/95	s. 6(1)(b)
Exceeded maximum time for parking in metered space	$60.00	$30.00	Parking Meter By-law No. 6547/95	s. 6(1)(e)
Improperly parked so vehicle not wholly within metered space	$60.00	$30.00	Parking Meter By-law No. 6547/95	s. 6(1)(d)
Parked at hooded meter	$70.00	$35.00	Parking Meter By-law No. 6547/95	s.6(1)(a)
Failed to display parking permit for metered space	$60.00	$30.00	Parking Meter By-law No. 6547/95	s.6(1)(a)
No parking – private property	$70.00	$35.00	Private Parking By-law No. 6549/95	s. 2
Permitting vehicle to be abandoned on street	$400.00	$200.00	Streets By-law No. 1481/77	s. 2.07.01
Repair vehicle on street	$100.00	$50.00	Streets By-law No. 1481/77	s. 2.05
Place or leave unattended an electrical wire, cord or cable to or across street	$100.00	$50.00	Streets By-law No. 1481/77	s. 2.15
Overtime parking	$70.00	$35.00	Traffic By-law No. 1573/77	s.26(a)
No stopping – bus stop (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19

No stopping any time (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19
No parking in alley	$70.00	$35.00	Traffic By-law No. 1573/77	s. 28(a)
No parking – street work (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19
No parking – loading zone (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19
No parking – limited time (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19
No parking – taxi stand (in violation of traffic control device)	$70.00	$35.00	Traffic By-law No. 1573/77	s. 19
Parked left side to curb	$70.00	$35.00	Traffic By-law No. 1573/77	s. 21(9)
Parked on sidewalk	$100.00	$50.00	Traffic By-law No. 1573/77	s. 21(1)
Parked on crosswalk	$100.00	$50.00	Traffic By-law No. 1573/77	s. 21(5)
Parked within three meters of approach to crosswalk	$70.00	$35.00	Traffic By-law No. 1573/77	ss. 21(5) and (6)
Parked on boulevard	$70.00	$35.00	Traffic By-law No. 1573/77	s. 28.1
Parked within 9 meters of flashing beacon, stop or arrêt sign or traffic control signal	$70.00	$35.00	Traffic By-law No. 1573/77	s. 26(c)
Parked within an intersection	$100.00	$50.00	Traffic By-law No. 1573/77	s. 21(3)
Parked within 3 metres of curb edge opposite fire hydrant	$100.00	$50.00	Traffic By-law No. 1573/77	s. 21(4)
Double parked	$70.00	$35.00	Traffic By-law No. 1573/77	s. 21(8)
Parked in front of driveway	$70.00	$35.00	Traffic By-law No. 1573/77	s. 21(2)
Park so as to obstruct or pose hazard to traffic	$100.00	$50.00	Traffic By-law No. 1573/77	s. 21(7)
Parked more than 450mm from curb	$70.00	$35.00	Traffic By-law No. 1573/77	s. 21(9)
No stopping 7:00 to 9:00 (in violation of traffic control device)	$100.00	$50.00	Traffic By-law No. 1573/77	s. 19

No stopping 15:30 to 17:30 (in violation of traffic control device)	$100.00	$50.00	Traffic By-law No. 1573/77	s. 19
Failed to display Residential Parking Permit or Visitor's Residential Parking Permit	$70.00	$35.00	Traffic By-law No. 1573/77	s. C.1, Schedule 10,
Failed to display Contractor's Permit or Social Services Provider's Permit	$70.00	$35.00	Traffic By-law No. 1573/77	s. 4, Schedule 12
Holder of Contractor's Permit or Social Services Provider's Permit exceeded 72 hour cumulative maximum parking period	$70.00	$35.00	Traffic By-law No. 1573/77	s. 5, Schedule 12
Failed to display permit evidencing temporary lifting of parking restrictions	$70.00	$35.00	Traffic By-law No. 1573/77	s. 4, Schedule 13
Parked on wrong side of residential street	$70.00	$35.00	Traffic By-law No. 1573/77	s. 31
Advertising vehicle, vehicle displayed for sale, or vehicle displaying goods for sale parked on street	$70.00	$35.00	Traffic By-law No. 1573/77	s. 35
Parked in violation of annual snow route parking ban (December to February)	$100.00	$50.00	Winter Parking Ban By-law No. 76/2011	s. 4
Parked in violation of declared snow route parking ban	$100.00	$50.00	Winter Parking Ban By-law No. 76/2011	s. 5
Parked in violation of residential parking ban	$150.00	$75.00	Winter Parking Ban By-law No. 76/2011	s. 6(3)