

COMPLIANCE BY-LAW NO. 2022-10

BEING A BY-LAW of the Rural Municipality of Whitehead to provide for enforcement and compliance with the Municipalities by-laws, policies, and to be known as the “Compliance By-law”.

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

AND WHEREAS The Provincial Offences Act, S.M. 2013 c.P160 establishes clear and effective processes for prosecuting offences under municipal by-laws;

AND WHEREAS it is deemed expedient and in the public interest to establish a process in accordance with the Provincial Offences Act and The Municipal By-law Enforcement Act to ensure enforcement of and compliance with municipal by-laws;

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

PART I: DEFINITIONS

1. DEFINITIONS

(a) In this by-law:

“ACT” means The Municipal By-law Enforcement Act.

“ADJUDICATOR” means a person appointed under Section 5 of The Municipal By-law Enforcement Act.

“AUTHORITY HAVING JURISDICTION” means the municipality of Whitehead and its designated agents, including but not limited to the Building Inspector, Orders under the Manitoba Fire Code, The Fires Prevention Act (Manitoba), the Fire Chief, or their respective designates.

“CAO” means Chief Administrative Officer.

“FEE SCHEDULE” means the fees set out in the current Schedule of Fees as set out in Schedule “A” of this by-law.

“INFORMATION OFFENSE 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 III: 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.

PART II: ORDER TO REMEDY

3. 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.
4. 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
5. The period within which a person may pay the administrative penalty or request a review by a screening office 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.
6. Failure to comply with an Order to Remedy within the established timeline is deemed an offence as set out in Schedule "A", as well as related Court Costs and Surcharges.

PART III: APPEAL TO SCREENING OFFICER

7. The Chief Administrative Officer may appoint Screening Officers as required to meet the administrative needs of this by-law.
8. 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 section 9, reduce the amount of the administrative penalty to as little as \$1,00, or issue a warning without imposing any penalty;
 - (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 subsection 6(2) of the Act;
 - c. The contravention was necessary in order to address immediate health and safety concerns.
9. 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.
10. 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 \$50.00 adjudication fee.

11. 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

12. An adjudication scheme as described in the 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 dispute as to whether the terms of a compliance agreement were complied with.

13. A fee as set out in Schedule "A" is imposed for a request for an adjudication.

14. 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.

15. 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 afternoon during regular office hours to attend a rescheduled adjudication; or
 - (b) Contact information, such as mailing address, telephone number, or email address, that will allow a Designated Officer to arrange with the person a date for a rescheduled adjudication.

16. A person may only request that an adjudication be rescheduled one time for the same penalty notice.

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

18. An Adjudicator has the powers granted in section 19, 20, 21, and 25 of the Act.

19. 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 Whitehead.

PART V: ENFORCEMENT

20. The Designated Officer is empowered to administer and enforce that by-law and to take any actions reasonably required to do so. Without limited 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:
 - 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 adjudication;
- (c) Take actions to collect administrative penalties owed to the Municipality.

PART VI: PROCEDURAL

21. Where a notice 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:
 - i. If the notice of 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
- (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 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.

22. A notice or other document that is:

- (a) Delivered personally is deemed to have been given on the 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 his by-law is deemed to have been given two (2) days after it was sent.

23. 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 Whitehead duly assembled this 11th day of July A.D. 2022

Original Signed by
A. Sutherland
Reeve

Original Signed by
D. Carriere
Chief Administrative Officer

Read a first time this 13th day of June A.D. 2022
Read a second time this 11th day of July A.D. 2022
Read a third time this 11th day of July A.D. 2022

SCHEDULE “A” to compliance By-Law

TICKET CODE	COMPLIANCE VIOLATION	POLICY OR BY-LAW NO.	FEE
	Adjudication Fee		\$25.00
	Noise	1909	Min. \$50.00 – Max \$1,000.00
	Animal Control – 1 st Offense	2067	Min. \$50.00 – Max \$500.00
	Animal Control – 2 nd Offence	2067	Min. \$100.00 – Max \$500.00
	Animal Control – 3 rd Offense	2067	Min. \$250.00 – Max \$1,000.00
	Fire Prevention and Emergency Services Person who contravenes, disobeys, refuses or neglects to obey	2018-06	Min. \$100.00 – Max \$1,000.00
	Fire Prevention and Emergency Services Person who hinders or obstructs the Authority Having Jurisdiction	2018-06	Min. \$100.00 – Max \$1,000.00
	Fines – 1 st Offense	GG-05	\$100.00
	Fines – 2 nd Offense	GG-05	\$250.00
	Fines – 3 rd Offense	GG-05	\$500.00 - \$1,000.00

Penalty Notice fine amounts “Schedule A”

Ticket Code	COMPLIANCE VIOLATION	
	Littering	\$50.00
	Trucks off Truck Routes	\$50.00
	Hauling During a Ban	\$50.00
	Snow Dumping onto Road	\$50.00
	Snow Pushing Across the Road	\$50.00
	Excessive Noise – 1 st Offense	\$50.00
	Excessive Noise – 2 nd Offense	\$100.00
	Dog Barking – 1 st Offense	\$100.00
	Dog Barking – 2 nd Offense	\$200.00
	Dog/Cat Off Leash-Running at large	\$100.00
	Failure to Pick-up dog/cat Excrement	\$50.00
	Accumulation of Dog/Cat Excrement On Private Property	\$50.00