



CITY OF YELLOWKNIFE

BY-LAW NO. 5054

BH 192

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, to provide for enforcement of the [Parking By-law No. 5053] through an administrative monetary penalty regime.

PURSUANT TO *Cities Towns and Villages Act* S.N.W.T. 2003, c.22, as amended, including without limitation sections 70 and 72, and section 1.1 of the *Summary Procedures Conviction Act*, R.S.N.W.T. 1988, c.S-15, as amended.

WHEREAS the Council of the Municipal Corporation of the City of Yellowknife wishes to provide for enforcement of violations of the [Parking By-law No. 5053] through an administrative monetary penalty regime that does not involve court proceedings.

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular sessions duly assembled, enacts as follows:

SHORT TITLE

1. This by-law may be cited as the “Administrative Monetary Penalty By-law”.

INTERPRETATION

2. In this by-law:

“Adjudicator” means a person appointed under section 17;

“By-law Officer” means a person appointed in accordance with the *Cities, Towns and Villages Act* as a by-law officer to enforce the by-laws of the City of Yellowknife, and any Peace Officer who is authorized to enforce the by-laws of the City of Yellowknife;

“City”	means the Municipal Corporation of the City of Yellowknife;
“City Manager”	means the City Manager of the City appointed pursuant to Section 41 of the <i>Cities, Towns and Villages Act</i> , S.N.W.T. 2003, c. 22, as amended or his or her designate;
“Council”	means Council of the City;
“Designated City Employee”	means an employee or agent of the City delegated a function, duty, or authority under this by-law by the City Manager;
“Owner”	means any person named in a certificate of registration for a motor vehicle or, if there is no valid certificate of registration for the motor vehicle, the person who has legal title of the motor vehicle or who is an owner pursuant to sections 3 and 329(4) of the <i>Motor Vehicle Act</i> . In the case of more than one person being listed on the registration, the owner will default to the first person listed on the registration;
“Parking By-law”	means [Parking By-law No. 5053];
“Penalty Notice”	means a notice under section 4 issued in respect of a contravention of the [Parking By-law No. 5053];
“Registrar of Motor Vehicles”	means the Registrar of Motor Vehicles appointed as such under the <i>Motor Vehicles Act</i> , R.S.N.W.T. 1988, c.M-16, as amended;
“Screening Officer”	means a screening officer described in section 14;
“Vehicle”	includes any vehicle designed to travel on land that is drawn, propelled or driven by any kind of power, including muscular power, but does not include an all-terrain vehicle or a device that is designed to run on rails.

APPLICATION

3. Contraventions of the [Parking By-law No. 5053] shall be dealt with by a penalty notice in accordance with this by-law.

PENALTY NOTICE

4. A penalty notice shall set out the following:
 - (1) the alleged by-law contravention in sufficient detail that the person who receives the notice would be able to identify the by-law and the contravention alleged;
 - (2) the vehicle's licence plate if it has one or, if not, the vehicle identification number;
 - (3) the amount of the administrative penalty, the amount of any early payment discount, and the consequences of failing to respond to the penalty notice; and
 - (4) how to pay the administrative penalty or request a review by a screening officer.
5. The amount of an administrative penalty is the amount set out in the [Parking By-law No. 5053].
6. When a penalty notice is delivered in accordance with section 11, the owner of the vehicle is liable to pay the administrative penalty set out in the penalty notice.
7. A penalty notice may be completed, issued and stored by any means that allows it to be reproduced in an understandable form, including electronically.
8. A penalty notice is not invalid by reason only that it is not signed by the by-law officer who issued it.
9. A penalty notice may not be issued more than one year after the by-law contravention for which it is issued is alleged to have occurred.
10. A designated City employee person shall ensure that a final notice as required by section 13 of this by-law is delivered to a person who fails to respond to a penalty notice in compliance with section 6.

DELIVERY OF THE PENALTY NOTICE

11. (1) A penalty notice may be delivered in the following ways:
 - a. by personal delivery,
 - i. if the person named in the penalty notice is a corporation,
 1. to the corporation's registered office,
 2. to an officer or director of the corporation, or

3. to someone who appears to be in charge at a place where the corporation carries on business;
- b. by leaving the penalty notice on the vehicle
 - c. by mailing a copy of the penalty notice by regular mail,
 - ii. to the address of the vehicle owner indicated in the records of the Registrar of Motor Vehicles,
 - iii. to the last known address of the vehicle owner, which may be an address indicated in the records of the Registrar of Motor Vehicles, or
 - iv. if the vehicle owner is a corporation,
 1. to the corporation's registered office,
 2. to an officer or director of the corporation.
- (2) A penalty notice that is delivered under section 11(1)(a) is deemed to be delivered to the person named in the penalty notice on the date of delivery.
 - (3) A penalty notice that is left on a vehicle under section 11(1)(b) is deemed to be delivered to the vehicle owner on the day the penalty notice is left.
 - (4) A penalty notice that is mailed under section 11(1)(c) is deemed to be delivered to the person to whom it is addressed seven days after the day of mailing.

Responding to the Penalty Notice

12. The period within which a person must pay the administrative penalty or request a review by a screening officer is 30 days after the date the penalty notice was delivered under section 11.

FINAL NOTICE

Final Notice Required if No Response to Penalty Notice

13. (1) If, at the end of the period for responding to a penalty notice under section 12, a person to whom a penalty notice was delivered has not responded, the City must deliver a final notice to the person indicating the amount of the administrative penalty owing and how and when it must be paid.

Delivery of Final Notice

- (2) A final notice may be delivered in a manner authorized under section 11 other than by leaving it on a vehicle, and is deemed to be delivered as set out in that section.

Responding to a Final Notice

- (3) A person to whom a final notice is delivered under subsection (1) may, within 30 days after delivery,

- a. pay the administrative penalty set out in the final notice; or
- b. request a review by a screening officer.

When Review Requested

- (4) When a review is requested under subsection (3)(b), section 15 applies with necessary changes.

If No Action Taken on Final Notice

- (5) If the person to whom a final notice is delivered does not take any action under subsection (3) within the 30-day period, the administrative penalty set out in the final notice is immediately due and payable to the City.

SCREENING OFFICER

14. (1) The City Manager may appoint screening officers.
- (2) The following employees of the City are screening officers by virtue of their office:
 - a. Director, Public Safety; and
 - b. Manager, Municipal Enforcement.

REVIEW BY SCREENING OFFICER

15. (1) On a review, a screening officer must:
 - a. confirm the amount of the administrative penalty;
 - b. reduce the amount of the administrative penalty on any grounds permitted by this by-law;
 - c. 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 4 of this by-law,
 - iii. 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; or
 - 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.

- (2) In addition to the decision under (1), a screening officer may grant to the person who requested the review additional time to pay the administrative penalty, at the screening officer's sole discretion.

Grounds for Reduction of Administrative Penalty

- (3) The screening officer may reduce the amount of the administrative penalty where:
- a. 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;
 - b. the vehicle owner can show that the contravention was a result of a minor medical emergency;
 - c. 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;
 - d. 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 the person exercised due diligence in attempting to comply; or
 - e. the circumstances surrounding the contravention are such that reduction of the amount of the administrative penalty would be in the public interest.

Full Penalty to be Considered

- (4) 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.

Screening Officer Must Give Written Reasons

- (5) 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 screening officer must give a copy of the written reasons for the decision to the person who requested the review.

Option to Pay or Ask for Review

- (6) Unless the screening officer decides to cancel the penalty notice, the written reasons given by the screening officer must be accompanied by a notice to the person that they must, within 14 days of receiving the decision,

- a. pay the administrative penalty, or pay the reduced amount if the screening officer reduced it; or
- b. request an adjudicator to review the screening officer's decision by notice in writing to the City accompanied by a \$25.00 adjudication fee.

If Adjudication Not Required

- (7) Subject to (8), if a person does not request an adjudication under section 14(6)(b) within the time period permitted by this by-law, the amount of any administrative penalty set by the screening officer is immediately due and payable to the City.
- (8) If the screening officer grants additional time for the person to pay the administrative penalty, the amount of any administrative penalty set by the screening officer is immediately due and payable to the City on the date set by the screening officer.

ADJUDICATION

16. An adjudication scheme is hereby established to allow a person to whom a penalty notice has been issued to request a review of a screening officer's decision by an adjudicator to confirm or reduce the administrative penalty set out in the penalty notice.

Appointing Adjudicators

17.
 - (1) Council shall appoint one or more adjudicators for the purposes of this by-law.
 - (2) Each adjudicator shall be appointed for an initial term of two years.
 - (3) An adjudicator may be reappointed for a second or subsequent term(s) of two years.
 - (4) Council may, on the advice of administration, rescind an adjudicator's appointment if satisfied that the person has ceased to be qualified for the appointment or is no longer suitable for the appointment.
 - (5) If an adjudicator resigns or their appointment expires, other than by a rescission under subsection (4), and an adjudicator has started to hear a dispute, the adjudicator may continue to act as an adjudicator until the adjudicator has decided the dispute and provided a decision to the City under section 21 of this by-law.

Qualifications

- (6) To be eligible for appointment as an adjudicator, a person must have the following qualifications:
 - a. be a Canadian citizen who is 18 years of age or older;
 - b. not have been convicted of an offence under a federal enactment for at least 10 years before applying for the appointment;

- c. not be named in a penalty notice in relation to which a penalty is outstanding and overdue;
- d. not be an employee or an elected official of the City;
- e. be able to deal with people in a fair, courteous and diplomatic way;
- f. be knowledgeable about the principles of administrative law and the practice of adjudication; and
- g. be able to formulate reasoned decisions respecting contraventions of City by-laws.

Conflict of Interest

- (7) An adjudicator may not hear a matter if he or she is reasonably apprehended to have a bias or an interest in relation to the outcome of the matter.

Opportunity to be Heard

18. (1) When an adjudication is held under this by-law, the adjudicator must give the parties an opportunity to be heard and to examine and make copies of any information that has been submitted to the adjudicator for the purpose of the adjudication.

Manner of Hearing

- (2) The adjudicator may allow a person to be heard
- a. in person or by agent;
 - b. by telephone or in writing, including by fax or email; or
 - c. through the use of a video or audio link or other available electronic means.

Failure to Appear – Amount Due

- (3) If a person who has requested adjudication fails to appear or otherwise participate, the adjudicator must order that the amount of the administrative penalty set by the screening officer is immediately due and payable to the City.

Procedures

- (4) An adjudicator may:
- a. adjourn a hearing; and
 - b. adopt procedures that are conducive to determining the matter in a fair and timely way.

Evidence

19. (1) In a matter being considered by an adjudicator, the adjudicator may admit as evidence anything that he or she considers relevant to an issue, whether or not it would be admissible under the laws of evidence.
- (2) An adjudicator may not admit anything under subsection (1) that is subject to solicitor-client privilege or privileged under the laws of evidence.
- (3) An adjudicator may accept evidence in any manner the adjudicator considers appropriate including, but not limited to, orally, in writing, and electronically.

Scheduling and Rescheduling Adjudications

20. (1) When the date, time and place for an adjudication has been determined, a designated City employee must give notice of the date, time and place to the person requesting the adjudication.
- (2) If the person is unable to attend the scheduled adjudication, that person may request that the adjudication 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 City employee to arrange with the person a date for a rescheduled adjudication.
- (3) A person requesting to reschedule adjudication must pay a \$25.00 fee for each request for a rescheduled adjudication, unless the request is received by the City within 7 days of the notice set out in subsection (1).
- (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.
- (5) Other than requests that are received by the City within 7 days of the notice being given to the person per subsection (1), a person may not request that an adjudication be rescheduled more than once for the same penalty notice.
- (6) When a request for a rescheduled adjudication has been received by the City in accordance with this by-law, a designated City employee must reschedule the adjudication
- a. to a date provided by the person under subsection (2)(a); or

- b. if the person has provided contact information under subsection (2)(b), to a date arranged with the person after a designated City employee has contacted the person.
- (7) If a designated City employee has made unsuccessful but reasonable efforts to contact the person at the contact information provided under subsection (2)(b), a designated City employee may reschedule the adjudication on any suitable date.
- (8) A designated City employee must give notice of the date, time and place of a rescheduled adjudication to the person requesting the rescheduled adjudication.

ADJUDICATOR'S DECISION

Standard of Proof

21. (1) The standard of proof for making a decision on an adjudication under this by-law is proof on a balance of probabilities.

Decision

- (2) After a hearing the adjudicator must:
- a. order that the administrative penalty set out in the penalty notice is immediately due and payable to the City;
 - b. order that a reduced penalty is immediately due and payable to the City, if there are grounds for doing so permitted under section 14(2) or the adjudicator is satisfied that exceptional circumstances exist; or
 - c. cancel the penalty notice if, in the adjudicator's opinion,
 - i. the contravention did not occur as alleged,
 - ii. the penalty notice does not comply with section 4 of this by-law,
 - iii. 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; or
 - 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.

Notice of Decision

- (3) The adjudicator's decision is to be reduced to writing and a copy given to the person who requested the adjudication and to the City.

Decision Available to the Public

(4) The adjudicator's decision must be made available to the public.

Adjudicator's Decision is Final

22. The decision of an adjudicator is final and is not open to appeal.

COSTS AND ADMINISTRATION OF ADJUDICATION SCHEME

23. The City is responsible for:

- a. the administration of and the administrative costs relating to adjudication under this by-law; and
- b. the remuneration and expenses of adjudicators.

Fee is Person Successful

24. The adjudicator must order the adjudication fee to be refunded if the person is successful in the adjudication, and it is up to the adjudicator to decide if the person was successful in any particular case. No refund will be issued for fees paid to reschedule an adjudication.

GENERAL**Limit on the Authority of Screening Officers and Adjudicators**

25. Neither a screening officer nor an adjudicator has the authority to inquire into or make a decision concerning
- a. the constitutional validity of a provision of a statute, regulation, or by-law; or
 - b. the legislative authority for a regulation or by-law made under an Act.

Powers of Designated City Employee

26. A designated City 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, a designated City employee is specifically authorized to
- a. approve the form or forms of documents required by 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.

SEVERABILITY

- 27. Should any provision of this by-law be found to be invalid by a court of competent jurisdiction, such invalid provision shall be severed and the remaining provisions of the by-law shall be maintained.

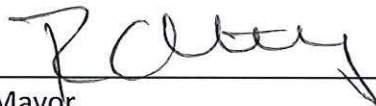
TRANSITIONAL

- 28. A summary offence ticket information for a parking contravention issued prior to the effective date of this by-law shall be dealt with under the Highway Traffic By-law No. 4063, as amended.

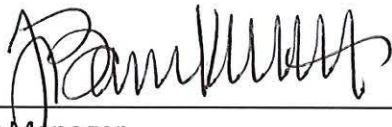
EFFECT

- 29. That this by-law shall come into effect on September 1, 2022 and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

Read a First time this 11 day of APRIL, A.D. 2022.



Mayor




City Manager

Read a Second Time this 11 day of APRIL, A.D. 2022.



Mayor




City Manager

Read a Third Time and Finally Passed this 25 day of APRIL, A.D., 2022.



Mayor



City Manager

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.



City Manager

