

TOWN OF KIPLING

BYLAW 10-2010

**A BYLAW TO ESTABLISH A GENERAL PENALTY, ENFORCEMENT AND VOLUNTARY PAYMENT OF FINES
BYLAW**

Short Title

1. This Bylaw may be cited as the *“General Penalty, Enforcement and Voluntary Payment of fines Bylaw.”*

Purpose of Bylaw

2. (a) The purpose of this Bylaw is to provide for the enforcement of bylaws of the Town of Kipling and establish penalties for contravention of such bylaws and to enumerate certain bylaws with respect to which a specified penalty sum may be paid without appearing in court.
- (b) The penalties and enforcement procedures in this Bylaw shall apply with respect to any contravention of any Bylaw of the Town of Kipling, unless a different penalty or procedure is otherwise specified in another Bylaw.

Definitions

3. In this bylaw:
 - (a) “Council” means the Council of the Town of Kipling.
 - (b) “Municipality” means the Town of Kipling.
 - (c) “Offender” means an individual or corporation that is alleged to have contravened a Bylaw of the Municipality.

Part 1

General Penalty

General Penalty

4. (1) Every person who contravenes any provision of a bylaw of the Municipality is guilty of an offence and liable on summary conviction:
 - (a) in the case of an individual to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the offence continues;
 - (b) in the case of a corporation to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the offence continues.

- (2) The court may, in default of payment of a fine imposed under this or any other bylaw of the Municipality, order imprisonment of an individual for a term not exceeding one year.
5. If an offender is found guilty of an offence against any bylaw of the Municipality, the court may, in addition to a fine, impose an additional penalty so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence.

Order for Compliance

6. (a) If an offender is found guilty of an offence against any bylaw of the Municipality, the court may, in addition to any other penalty imposed, order the offender to comply with the bylaw or a licence, permit or other authorization issued under the bylaw, or a term or condition of any of them.
- (b) A person to whom an order is made pursuant to subsection (a) who fails to comply with that order within the time specified by the court is guilty of an offence and liable on summary conviction.
- (i) in the case of an individual to a fine not exceeding \$10,000 and, in the case of a Continuing offence to a further fine not exceeding \$2,500 for each day during which the non-compliance continues;
- (ii) in the case of a corporation, to a fine not exceeding \$25,000 and, in the case of a continuing offence to a further fine not exceeding \$2,500 for each day during which the non-compliance continues.

Part II

Voluntary Payment of Fines

Voluntary Payment

7. Offences pursuant to the following Bylaws of the Municipality are designated as offences which may be commenced by the issuance of a "Bylaw Violation Notice" and with respect to which a specified penalty sum may be paid without appearing in court:
- (a) Bylaw 4-77 Control and Regulate the Discharge of Firearms
Voluntary Payment - \$50.00
- Bylaw 2-2003 Regulate Smoking in Certain Public Facilities
Voluntary Payment - \$50.00
- Bylaw 8-2005 Regulate the Operation of Golf Carts
Voluntary Payment - \$50.00
- Bylaw 6-2005 All Terrain Vehicles
Voluntary Payment of \$50.00
- Bylaw 6-2008 Swimming Pool Bylaw
Voluntary Payment - \$50.00
- Traffic Safety Act

9. (1) An offender who has been served with a "Bylaw Violation Notice" and who wishes to Plead guilty may deliver:
 - (a) the Bylaw Violation Notice; and
 - (b) an amount equal to the specified penalty sum for the offence, to a place indicated in the Bylaw Violation Notice on or before the date specified on the Bylaw Violation Notice.
- (2) The recording by the Administrator or Bylaw Enforcement Officer of the Municipality of a receipt of payment of a specified penalty sum under subsection (1) constitutes:
 - (a) an acceptance of a guilty plea; and
 - (b) the conviction and the imposition of a fine in the amount of the specified penalty sum.
- (3) If a payment of the specified penalty sum is made by cheque and the cheque is dishonoured:
 - (a) the conviction continues but the fine remains outstanding whether or not the plea is signed in the manner provided for on the summons or offence notice; and
 - (b) the Administrator or Bylaw Enforcement Officer shall give written notice to Offender that the cheque has been dishonoured, the conviction continues and the fine remains outstanding.
- (4) Where written notice has been sent pursuant to clause (3) (b) to an offender who had Been served with the written notice, the fine will be considered to be in default 15 days after the notice was sent.
- (5) A Bylaw Violation Notice shall be in the form or substantially in the form of Form "A."

Failure to Make a Voluntary Payment

10. (a) Where an offender fails to make payment of the amount specified in the "Bylaw Violation Notice" on or before the date indicated on the Bylaw Violation Notice, a Bylaw Enforcement Officer or peace officer or other authorized person shall issue or cause to be issued a Summons and shall be liable to prosecution of the alleged contravention.
- (b) The Summons shall be in the form or substantially on the form of Form "B."
- (c) Nothing in this section shall be construed to prevent any person from exercising his or her right to defend a charge of contravention of any Bylaw.

Part III
Appointment of Bylaw Enforcement Officer

Appointment of Bylaw Enforcement Officer

11. (1) The appointment of a Bylaw Enforcement Officer for the Municipality shall be by Resolution of the Council.
- (2) The duties of the Bylaw Enforcement Officer shall be:
- (a) to enforce all of the bylaws (as amended from time to time) (outlined in job Description) of the Town of Kipling;
 - (b) to represent the Municipality before a justice of the peace or provincial court judge in the prosecution of any person charged with contravention of a Bylaw of the Municipality; and
 - (c) such further and other duties as may be assigned by Council or its delegate from time to time.

Part IV
General

Service of Documents

12. Where this Bylaw requires a notice or document to be given to or served on an offender, the notice or document may be served;
- (a) by ordinary mail addressed to the offender at the offender's address for service; or
 - (b) personally on the offender.
- (2) Service by ordinary mail pursuant to subsection (1) may be proved by the affidavit of the Administrator or Bylaw Enforcement Officer who mailed the notice or document.

Application of Bylaw

13. If a court of competent jurisdiction should declare any section or subsection of this Bylaw to be invalid, such section or subsection shall not be construed as having persuaded the Council to pass the remainder of the Bylaw, and it is hereby declared that the remainder of this Bylaw shall be valid and remain in force.

Consequential Amendments

- 14.

Coming Into Force

15. This Bylaw shall come into force and have effect from and after the date of the final reading.

Repeal of Bylaw No. 2-90

16. Bylaw No 2-90 passed July 9, 1990 is hereby repealed.

Mayor

Administrator

"Schedule A"

Town of Kipling

Bylaw Violation Notice

No

Name: _____

Address: _____

This official notice is issued for alleged breach of the following bylaw:

Bylaw No: _____

Section No: _____

Voluntary Payment: _____

DETAILS OF VIOLATION:

Time _____ A.M. Date _____, 20
P.M.

Location of violation: _____

Particulars: _____

PENALTY:

Take notice that you may remit a voluntary payment to the Municipality in the amount stipulated above to avoid prosecution for this offence.

Payment may be made in person to the Municipal Office, 301 6th Avenue or by mail to:

Town of Kipling, Box 299, Kipling, SK S0G 2S0

If the voluntary payment indicated above is not received by _____, a summons requiring your appearance in provincial court will be issued.

Issued this _____, 20 by _____

Signature of Designated Official