

BY-LAW NO. 46

A BY-LAW OF THE NEW TOWN OF FOX CREEK  
TO PROVIDE FOR THE IMPOSITION OF PENALTIES  
FOR INFRACTIONS OF TOWN BY-LAWS.

WHEREAS, the Municipal Government Act provides that Board of Administrators may pass by-laws imposing penalties for infractions of Municipal by laws and the said Act further provides that the New Town may enact procedures for the payment unto the Secretary-Treasurer or other person designated by the Board of Administrators of an amount fixed by by-law to be accepted by the New Town in lieu of prosecution; and

WHEREAS, it is considered convenient and expedient that the provisions relating to by-law penalties be incorporated into a modern by-law, the provisions of which may be incorporated by reference into other by-laws of the New Town.

NOW THEREFORE, the Board of Administrators of the New Town of Fox Creek duly assembled, enacts as follows:

1. Any person committing a breach of any of the provisions of any of the by-laws of the New Town of Fox Creek now in force or which may at any time hereafter come into force and so remain shall be liable upon conviction for a breach thereof to a penalty not exceeding Five Hundred Dollars (\$500.00) exclusive of costs, and in case of non-payment of the fine and costs imposed for any such breach to punishment by imprisonment in the nearest common gaol for any period not exceeding sixty (60) days.
2. In the case of non-payment of a license fee, then in addition to any of the penalties set forth in Paragraph 1 of this by-law the Magistrate or Justice may order payment of any license fee payable to the New Town under the provisions of any Town by-law in addition to the penalty.
3. Where any person is convicted of an offence under any New Town by-law that relates to the use of a bicycle within the New Town, a Magistrate or Justice may in addition to any penalty imposed for such offence order and direct the impounding by the Police of the bicycle concerned in the commission of the offence for a period not exceeding fourteen (14) days.
4. When a person is charged with a breach of any New Town by-law, that has involved the moving or storage of a vehicle or the moving to storage or otherwise of an obstruction on a highway, public place, civic or private parking lot on private property, then any expense that has been incurred by the New Town in connection with such moving or storage, shall be added to the amount of any fine or penalty imposed for such breach or non-observance of the by-law and such expenses may be added to any amount that is fixed under any New Town by-law as a payment to be made in lieu of prosecution as provided in the next section of this by-law.
5. In any municipal by-law now or hereafter enacted, when no penalty is provided therein for a breach of all or any of the provisions of the by-law then it shall be deemed that the penal provisions herein enacted apply, and the Magistrate of Justice upon conviction for an offence under any by-law may impose a fine and costs and imprisonment, or any of them as he may deem appropriate, and all relevant provisions of this general penalty by-law shall be incorporated by reference into by-laws of the New Town that may be passed from time to time hereafter.
6. As authorized by the Municipal Government Act it is hereby provided that when any person is being charged with an offence under any New Town by-law which now or hereafter provides therein for the issue of an offence ticket, tag or notice as an alternative to the issuance of a Summons and prosecution in Magistrate's Court, than the procedure that shall apply is the following:  
then

(2) Every notice shall be on a form approved by the Secretary-Treasurer that provides for payment within seven (7) days from the date appearing upon the notice with payment to be made to the Secretary-Treasurer or to any other person designated by the Board and named upon the notice. If payment is made within the time limited, then such payment shall be accepted in lieu of prosecution in Magistrate's Court.

(b) The notice or form may be issued by being handed to the person concerned or it may be personally served according to law. The notice may be left upon the vehicle in appropriate cases or may be left at the dwelling of a person who is alleged to be in breach of the by-law.

(c) If the person concerned fails to pay the amount that is specified upon the notice within the said seven (7) days from the time the form was issued or was left on the vehicle or at the premises, then the legal right of the person to settle the alleged offence without a Court appearance shall no longer apply but a further period of grace may be allowed within which payment will be accepted. When a total period of twenty (20) working days has elapsed from the issue date of the notice without payment being received by the New Town, then no tender of payment of the amount shown in the printed offence notice shall be accepted by the New Town and a Summons shall be issued and served in the manner provided by law and the prosecution shall proceed as though no notice of the type herein provided for had ever been issued.

(d) Nothing in this Section contained shall:-

- (i) Prevent any person concerned from exercising his right to defend any charge of committing a breach of any by-laws; or
- (ii) prevent any person entitled to do so from laying an Information and Complaint against any person for committing a breach of any by-law; or
- (iii) prevent any person from exercising any legal rights that such person may have to lay an Information and Complaint against any other person (whether such other person has made a payment under the provisions of this by-law or not) for a breach of any provision of a by-law; or
- (iv) apply to any person who has been guilty of more than two breaches of the by-law in question within the year in which the tag or notice is proposed to be issued; or
- (v) affect the right of the proper officers or officials of the New Town or the Crown to lay an Information or Complaint in respect of any breach by any person of any of the provisions of any municipal by-laws if such officers or officials deem such procedure to be in the interest of justice; or
- (vi) apply to any of the breaches or violations of any by-law of the New Town if such breach or violation may have or is considered to have been the occasion of any serious injury to any person or any serious loss to property of any person.

(e) When any person has paid up a fine by means of a tag, ticket or notice any notwithstanding the payment of such tag, ticket or notice is prosecuted for the offence in respect of which such summary amount has been paid, then the person concerned shall upon written application to the Secretary-Treasurer be entitled to obtain a refund of the amount of such tag or ticket.


(f) Whenever a person is charged with an offence by means of the issuance of a tag, ticket, or notice and the person is a male person under the age of sixteen (16) years and a female person under the age of eighteen (18) years, then such person shall in respect of such offence be subject to the jurisdiction of the Juvenile Court as provided for in the Juvenile Court Act.

7. All previous pertinent by-laws are hereby rescinded.

READ a first time this 23rd day of September 1969.

READ a second time this 23rd day of September 1969.

READ a third time and finally passed by unanimous consent this 23rd day of September, 1969.

  
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CHAIRMAN

  
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SECRETARY-TREASURER