

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 0000 (2020)

**Being a by-law to Establish an Administrative Monetary Penalty
System for Non-Parking Related Offences and to amend all By-Law's
referenced in Schedule A**

WHEREAS section 434.1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended (Municipal Act, 2001) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

WHEREAS section 434.1(2) of the *Municipal Act, 2001*, provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and,

WHEREAS section 15.4.1 of the *Building Code Act, 1992* as amended, authorizes a municipality to pass a by-law that may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Building Code Act, 1992*, as amended or an order of an officer authorized under 15.2(2) or 15.3, 2017, c.34, Schedule 2, s.10 of the *Building Code Act, 1992*, as amended; and,

WHEREAS section 434.2(1) of the *Municipal Act, 2001*, provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and,

WHEREAS section 391(1) of the *Municipal Act, 2001*, provides that without limiting sections 9, 10, and 11, those sections authorize a Municipality to impose fees or charges on persons; and,

WHEREAS the Council of the Corporation of the Town of Pelham considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through an administrative penalty system;

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

DEFINITIONS

1. In this By-law:

- 1.1. "Administrative Penalty" means an administrative penalty established by a Designated By-law;
- 1.2. "By-law" means this by-law and any schedule to this by-law as they may from time to time be amended;
- 1.3. "Town" means The Corporation of the Town of Pelham;
- 1.4. "Council" means the Town's Council;
- 1.5. "Designated By-law" means each by-law that is designated by the Town as a by-law to which this By-law applies;

- 1.6. "Director" means the person, or his delegate, from time to time performing the functions of the Director of Fire and By-law Services.
- 1.7. "Fee – Appeal No-Show" means an administrative fee in respect of a Person's failure to appear at the time and place scheduled for a hearing before a Hearings Officer;
- 1.8. "Fee – Late Payment" means an administrative fee in respect of a Person's failure to pay an Administrative Penalty by the date on which it is due and payable;
- 1.9. "Fee – Review No-Show" means an administrative fee in respect of a Person's failure to appear at the time and place scheduled for a review by a Screening Officer;
- 1.10. "Hearings Officer" means each Hearing Officer(s) from time to time appointed by Town Council
- 1.11. "Officer" means each of
 - (a) the Director;
 - (b) a Municipal Law Enforcement Officer appointed by or under the authority of a Town by-law to enforce a Designated By-law; and
 - (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police; and
 - (d) An Animal Control Officer employed by any local or provincial S.P.C.A.
- 1.12. "Penalty Notice" means a notice given pursuant to sections 3 and 5;
- 1.13. "Penalty Notice Date" means the date specified on the Penalty Notice pursuant to subsection 5.1;
- 1.14. "Penalty Notice Number" means the number specified on the Penalty Notice pursuant to subsection 5.2;
- 1.15. "Person" includes an individual, partnership, association, firm or corporation;
- 1.16. "Screening Decision" means a decision made by a Screening Officer pursuant to subsection 7.6;
- 1.17. "Screening Decision Date" means the date on which a Screening Decision is made pursuant to subsection 7.6;
- 1.18. "Screening Officer" means each person from time to time performing the functions of a Screening Officer pursuant to this By-law and appointed by Town Council

Penalty Notice

- 2. Each Person who contravenes a provision of a Designated By-law shall, when given a Penalty Notice in accordance with section 3, be liable to pay to the Town an Administrative Penalty in the amount specified by the Designated By-law, for each day or part of a day on which the contravention continues.
- 3. An Officer who has reason to believe that a Person has contravened any provision of a Designated By-law may give to the Person a Penalty Notice.

4. The Director may, before 4:30 pm of the tenth (10th) calendar day after the Penalty Notice Date, cancel the Administrative Penalty. If the 10th calendar day is a Statutory Holiday, then cancellation may occur on the 11th day.
5. The Penalty Notice shall be given to the Person within fourteen (14) calendar days of the infraction date and shall include the following information:
 - 5.1. the date the infraction occurred;
 - 5.2. the date the Penalty Notice was issued;
 - 5.3. a reference number that is unique to that Penalty Notice;
 - 5.4. particulars of the contravention;
 - 5.5. the amount of the Administrative Penalty;
 - 5.6. such information as the Director determines is appropriate respecting the process by which the person may exercise the Person's right to request a review of the Administrative Penalty; and
 - 5.7. a statement advising that an Administrative Penalty will, unless cancelled or reduced pursuant to the review and appeal processes, constitute a debt of the Person to the Town.
6. A Person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer pursuant to section 7.

Review by Screening Officer

7. The following applies to reviews of an Administrative Penalty by a Screening Officer:
 - 7.1. A Person's right to request a review expires if it has not been exercised in the manner prescribed in subsection 7.3 before 4:30 p.m. on the date on which the Administrative Penalty is due and payable.
 - 7.2. A Person's right to request an extension of the time to request a review expires if it has not been exercised in the manner prescribed in subsection 7.3 on or before 4:30 p.m. on the date on which the Administrative Penalty is due and payable; and
 - (a) the Person shall be deemed to have waived the right to request a review;
 - (b) the Administrative Penalty shall be deemed to be affirmed; and
 - (c) the Administrative Penalty shall not be subject to review, including review by any Court.
 - 7.3. A Person's rights to request a review and to request an extension of time to request a review are exercised by giving to the Town written notice of the request to review that includes:
 - (a) the Penalty Notice Number;
 - (b) the Person's mailing address and, if applicable, facsimile transmission number and/or e-mail address;

- (c) in the case of a request to extend the time to request a review, the reasons, if any, for having failed to exercise the right to request a review within the time limited by subsection 7.1;
- (d) particulars of all grounds upon which the request to review is based; and
- (e) the Person's election to
 - (i) meet with a Screening Officer for the review; or to
 - (ii) have the review undertaken by a Screening Officer in writing in respect of the particulars provided by the Person pursuant to paragraph 7.3(d).

7.4. Where the Person elects to meet with a Screening Officer pursuant to clause 7.3(e)(i), the Person shall be given notice of the date, time and place of the review.

7.5. Where the Person elects to meet with a Screening Officer pursuant to clause 7.3(e)(i) and the Person fails to appear at the time and place scheduled for a review or fails to remain at such place until the Screening Officer has made a Screening Decision respecting the Administrative Penalty the subject of the Person's request for the review,

- (a) the Person shall be deemed to have abandoned the request for the review;
- (b) the Administrative Penalty shall be deemed to be affirmed;
- (c) the Administrative Penalty shall not be subject to review, including review by any Court; and
- (d) the Person shall pay to the Town a "Fee - Review No-Show".

7.6. Subject to subsections 7.2 and 7.5, the Screening Officer may

- (a) extend the time to request a review; and may
- (b) cancel, reduce or extend the time for payment of the Administrative Penalty and any administrative fees respecting that Administrative Penalty where the Screening Officer is satisfied that doing so would maintain the general intent and purpose of the Designated By-law and that:
 - (i) there is reason to doubt that the person contravened the Designated By-law;
 - (ii) the person took all reasonable steps to prevent the contravention; or that
 - (iii) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.

7.7. The Screening Decision shall be given to the Person in writing.

7.8. The Person may appeal to a Hearings Officer against the Screening Decision pursuant to section 8.

Appeal to Hearings Officer

8. The following applies to appeals to a Hearings Officer against Screening Decisions:

8.1. The right to appeal is limited to the following:

- (a) a Person who has been given a Screening Decision pursuant to subsection 7.7; and
 - (b) the Director.
- 8.2. A Person's right to appeal expires if it has not been exercised in the manner prescribed in subsection 8.4 before 4:30 p.m. on the due and payable date for the Administrative Penalty listed on the Screening Decision.
- 8.3. A Person's right to request an extension of the time to appeal expires if it has not been exercised in the manner prescribed in subsection 8.4 before 4:30 p.m. on the due and payable date for the Administrative Penalty listed on the Screening Decision
- (a) the Person shall be deemed to have waived the right to appeal;
 - (b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed; and
 - (c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court.
- 8.4. A right to appeal or request an extension of time to appeal is exercised by giving to the Town written notice of the request that includes:
- (a) the Penalty Notice Number;
 - (b) the Person's mailing address and, if applicable, facsimile transmission number and e-mail address;
 - (c) in the case of a request to extend the time to appeal, the reasons, if any, for having failed to exercise the right to appeal within the time limited by subsection 8.2; and
 - (d) particulars of all grounds upon which the appeal is made.
- 8.5. The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- 8.6. Where the Person fails to appear at the time and place scheduled for a hearing of the appeal:
- (a) the Person shall be deemed to have abandoned the appeal;
 - (b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed;
 - (c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court; and
 - (d) the Person shall pay to the Town a "Fee - Appeal No-Show".
- 8.7. A Hearings Officer shall not make any decision respecting an appeal unless the Hearings Officer has given each of the Person, the Director and the Officer who gave the Penalty Notice an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- 8.8. Subject to subsections 8.3, 8.6 and 8.7, a Hearings Officer may

- (a) extend the time to request an appeal; and may
 - (b) make any decision that the Screening Officer could have made pursuant to this By-law.
- 8.9. The decision of a Hearings Officer is final and not subject to review including review by any Court.

Notice

9. Subject to section 11, any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
- 9.1. when a copy is placed on or affixed in any manner to a Person's vehicle;
 - 9.2. when a copy is delivered to the Person to whom it is addressed;
 - 9.3. on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to the Person's last known address;
 - 9.4. upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
 - 9.5. upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's last known e-mail address.
10. For the purpose of section 9, a Person's last known address, last known facsimile transmission number and last known e-mail address are deemed to include those provided by the Person pursuant to paragraphs 7.3(b) and 8.4(b) and/or any contact information the Town of Pelham may have on record for that person.
11. Any notice or document respecting this By-law to be given to the Town shall be in writing, shall be given in any of the following ways and is effective:
- 11.1. when a copy is delivered to the Town of Pelham Public Reception Desk, Lower Level Town Hall, 20 Pelham Town Square, Fonthill, Ontario L0S 1E0
 - 11.2. on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to "Administrative Penalties, Att: Town Clerk, Town of Pelham, P.O. Box 400, 20 Pelham Town Square, Fonthill, ON, L0S 1E0
 - 11.3. upon the conclusion of the transmission of a copy by facsimile transmission to 905-892-5055; or
 - 11.4. upon the sending of the notice or document or a copy thereof by e-mail transmission to "AMPappeals@pelham.ca".

Financial Administration

12. No Officer who gives a Penalty Notice may accept payment of the Administrative Penalty respecting that Penalty Notice.
13. An Administrative Penalty that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to this By-law is due and payable and constitutes a debt to the Town of each Person to whom or to which the Penalty Notice was given.
14. Where a Person has paid an Administrative Penalty or an administrative fee that is then cancelled or reduced pursuant to this By-law, the Town shall refund the original amount cancelled or reduced.

15. Where an Administrative Penalty or any administrative fees respecting that Administrative Penalty are not paid within fifteen (15) days after the date that they become due and payable, each Person to whom the Penalty Notice was given shall pay to the Town a Fee - Late Payment.
16. An Administrative Penalty imposed on a person constitutes a debt of the person to the municipality as per section 434.2(1) of the *Municipal Act, 2001*.
17. If an Administrative Penalty imposed on a person is not paid within 15 days after the day that it becomes due and payable, the Town of Pelham Treasurer may add the Administrative Penalty to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the Administrative Penalty, and collect it in the same manner as municipal taxes as per section 434.2(2) of the *Municipal Act, 2001*.
18. **Fees**
 - 18.1 "Fee - Late Payment" means a fee of \$50.00 to be added to the original Administrative Penalty Notice for failing to pay to the Town the amount of the Administrative Penalty within fifteen (15) days after the date of issue.
 - 18.2 "Fee - Review No-Show" means a fee of \$50.00 to be added to the original Administrative Penalty Notice should a person fail to attend a review for an Administrative Penalty by a Screening Officer.
 - 18.3 "Fee – Appeal No-Show" means a fee of \$150.00 to be added to the original Administrative Penalty Notice should a person fail to attend a Hearing for an Administrative Penalty by a Hearings Officer.

Complaints and Comments

19. Complaints and comments respecting the administration of the Town's system of administrative penalties may be given to the Director of Fire and By-law Services. The Director shall consider each such complaint or comment in relation to the Director's consideration of opportunities for improvements to the Town's system of administrative penalties.

General

20. Town Council may appoint Screening Officers, such individuals and on such terms as Town Council considers appropriate.
21. Council for the Town of Pelham hereby appoints the Town Clerk as the Screening Officer to conduct the Review Process as more particularly outlined in Part 7 of this By-law, and further, to appoint the Town Deputy Clerk to act in the same capacity as the Town Clerk in his/her absence.
22. Nothing in this By-law limits the Town's right to enforce a Designated By-law by all legal means.
23. It is Council's opinion that the delegations in this By-law to the Director, the Town Clerk, to Hearings Officers and to Screening Officers are of a minor nature. In forming this opinion, Council has had regard to the number of people, the size of geographic area and the time period affected by the exercise of each delegated power.

24. The short title of this By-law is the “Administrative Penalty Process By-law”.

COMMENCEMENT

25. This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED THIS ____ DAY OF _____, 2020

Mayor, Marvin Junkin

Nancy J. Bozzato, Town Clerk

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SCHEDULE A TO BY-LAW #####(2020) – Administrative Monetary Penalty System for Non-Parking Related Offences

Pursuant to By-law #####(2020), the following By-laws, or as may be amended from time to time, are included in the Non-Parking Related Offences, and/or are hereby amended:

1. **Fence By-law 4157 (2019)** is amended by inserting the following sections:

21.1 Administrative Penalty

21.2 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

21.3 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

2. **Noise By-law 3130 (2010)** is amended by inserting the following sections:

11.1 Administrative Penalty

11.2 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

11.3 Each person who contravenes any provision of this By-law, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

3. **Parks and Facilities By-law 1608 (1993)** is amended by inserting the following sections:

12.1 Administrative Penalty

12.1 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

12.2 Each person who contravenes any provision of this By-law, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

4. **Prohibit Possession of Liquor in Recreational Areas By-law 1583 (1993)** is amended by inserting the following sections:

4. OFFENCES

- 4.1 Any person who contravenes this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed by the Provincial Offences Act

5. ADMINISTRATIVE PENALTY

- 5.1 Administrative Penalty Process By-law 0000-(2020) applies to each administrative penalty issued pursuant to this By-law.
- 5.2 Each person who contravenes any provision of this By-law shall upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000-(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

5. Pool By-law 3389 (2013) is amended by inserting the following sections:

6.4 Administrative Penalty

- 6.5 Administrative Penalty Process By-law 0000-(2020) applies to each Administrative Penalty issued pursuant to this By-law.
- 6.6 Each Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000-(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

6. Deposit Snow and Ice on Highway By-law 3013 (2008) is amended by inserting the following sections:

- (8) a. Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- b. Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

7. Exotic Pet By-law 3348 (2013) is amended by inserting the following sections:

10.9 Administrative Penalty

- a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the

Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

8. Dogs which are an Annoyance or Nuisance By-law 1450 (1992) is amended by inserting the following sections:

(2.1) **Administrative Penalty**

- a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

9. Animals at Large By-law 2174 (2000) is amended by inserting the following sections:

- 4. b) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law
- c) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

10. Skateboarding By-law 3424 (2013) is amended by inserting the following sections:

- 7.2 a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

11. Property Standards By-law 2025 (1998) is amended by inserting the following sections:

- 6.2 a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)** is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

12. Sign By-law 0000 (2020) is amended by inserting the following sections:

3.12.12 Administrative Penalty

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

13. Licensing By-law 3186 (2011) is amended by inserting the following sections:

13.1 Administrative Penalty

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

14. Fireworks By-law 2951 (2008) is amended by inserting the following sections:

10.2 Administrative Penalty

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

15. Environmental By-law 3357 (2013) is amended by inserting the following sections:

23. Administrative Penalty

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the

Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

16. Open Air Burning By-law 0000 (2020)

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