



The Corporation of the Town of Pelham

By-law No. 4483(2022)

Being a By-law to regulate the parking of motor vehicles on Town of Pelham property.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that the powers of a municipality under the statute or any other Act shall be interpreted broadly so as to confer broad authority to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;

AND WHEREAS section 11 of the *Municipal Act, 2001* provides that a lower-tier municipality has the authority to pass by-laws respecting parking on lands other than highways;

AND WHEREAS subsection 170(15) of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8 ("*Highway Traffic Act*") provides that vehicles parked in such a manner as to interfere with the movement of traffic or in contravention of a municipal by-law may be removed and placed in a suitable storage place and that all costs for the removal, care and storage of the vehicle are a lien upon it that may be enforced in the manner provided by the *Repair and Storage Liens Act*, R.S.O. 1990, c. R. 25 ("*Repair and Storage Liens Act*");

AND WHEREAS section 101 of the *Municipal Act, 2001* provides that a municipality may provide for the removal and impounding or the restraining and immobilizing of any vehicle parked or left in contravention of a municipal by-law regulating or prohibiting the parking or leaving of vehicles on land;

AND WHEREAS section 102.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-law respecting the parking, standing or stopping of vehicles;

AND WHEREAS Ontario Regulation 333/07 under the *Municipal Act, 2001* ("the Regulation") provides that a municipality shall not require a person to pay an administrative penalty under section 102.1 of the *Municipal Act, 2001* unless the municipality has met the requirements of the Regulation;

AND WHEREAS the Corporation of the Town of Pelham has established a system of administrative penalties in accordance with section 102.1 of the *Municipal Act, 2001* and the Regulation;

AND WHEREAS section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the statute is guilty of an offence;

AND WHEREAS section 428 of the *Municipal Act, 2001* provides that a by-law may provide that where a vehicle has been left parked in contravention of a by-law, the owner of the vehicle is guilty of an offence, even though the owner was not the driver of the vehicle at the time of the contravention, and is liable to the applicable fine unless, at the time of the offence, the vehicle was in the possession of another person without the owner's consent;

AND WHEREAS section 429 of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the statute;

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it necessary and desirable to enact this By-law;

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

1. Purpose

- 1.1. The purpose of this By-law is to regulate the parking and leaving of Motor Vehicles on land or property owned by the Town and upon which parking is provided.

2. Definitions

- 2.1. In this By-law:

"By-law Enforcement Officer" means a By-law Enforcement Officer of the Town.

"Emergency Service Vehicle" means an ambulance, a fire truck or other fire department vehicle, a police vehicle or a vehicle of the Ontario Ministry of Transportation.

"Highway" has the same meaning as in the *Highway Traffic Act*.

"Motor Vehicle" has the same meaning as in the *Highway Traffic Act*.

"Officer" means any provincial offences officer or police officer authorized to enforce this By-law, the *Highway Traffic Act* and any other applicable legislation.

"Park" means the standing of a Motor Vehicle, whether it is occupied or not, except standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers, and the terms **"Parked"** and **"Parking"** have corresponding meanings.

"Parking Space" means an area of Town Property set aside for the temporary Parking of one (1) Motor Vehicle and normally designated by lines or other suitable markings painted or marked on the land surface;

"Person" means an individual, corporation, partnership or association.

"Town" means the Corporation of the Town of Pelham.

"Town Property" means any land or property owned or occupied by the Town, other than a Highway, that is intended for the temporary Parking of Motor Vehicles and on which there are one (1) or more Parking Spaces.

3. General Prohibitions

- 3.1. No Person shall Park or leave a Motor Vehicle or permit a Motor Vehicle to be Parked or left on any land or property owned by the Town other than on Town Property.
- 3.2. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property except in accordance with this By-law.

4. Parking on Town Property

- 4.1. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property without the consent of the Town.
- 4.2. A Motor Vehicle that is Parked or left on Town Property contrary to any provision of this By-law shall be deemed to have been Parked or left without the consent of the Town.
- 4.3. Where the Town has posted one or more signs stating conditions on which a Motor Vehicle may be Parked or left on Town Property, a Motor Vehicle that is Parked or left on Town Property contrary to any such conditions shall be deemed to have been Parked or left without the consent of the Town.
- 4.4. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property other than in a Parking Space and in conformity with signs and markings.
- 4.5. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in such a manner that it is not wholly within a Parking Space.
- 4.6. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in any Parking Space that is occupied by another Motor Vehicle.
- 4.7. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in any Parking Space that is temporarily closed.
- 4.8. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property at any time between the hours of 1:00 a.m. and 5:00 a.m. daily.
- 4.9. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in such a manner as to interfere with the clearing of snow or other maintenance or repair of the Town Property.
- 4.10. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in such a manner as to obstruct or interfere with the ability of other Motor Vehicles to access or travel through the Town Property.
- 4.11. No Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in any Parking Space for which the Town has posted signs reserving the use of the Parking Space for specific Persons or Motor Vehicles.

- 4.12. To the extent that Town By-law Nos. 97-2020 and/or 4462(2022) apply to Town Property, no Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property in a manner that contravenes said By-law(s).
- 4.13. The Town may from time to time establish such fees or charges as may be deemed necessary and appropriate for the use of Town Property. Where the Town has established a fee or charge for the use of Town Property and has posted one or more signs stating the applicable fee or charge, no Person shall Park or leave a Motor Vehicle on Town Property or permit a Motor Vehicle to be Parked or left on Town Property without paying the applicable fee or charge.
- 4.14. No Person that Parks or leaves a Motor Vehicle on Town Property or that permits a Motor Vehicle to be Parked or left on Town Property shall injure, encumber, obstruct or foul the Town Property by placing, discarding or leaving any object, material, substance, debris, item or thing in or upon the Town Property or permit the Town Property to be injured, encumbered, obstructed or fouled by the placing, discarding or leaving of any object, material, substance, debris, item or thing in or upon the Town Property.

5. Exemptions

- 5.1. Where compliance with this By-law would be impracticable, this By-law shall not apply to Motor Vehicles operated by or on behalf of the Town and engaged in Town operations including but not limited to inspection, maintenance or repair of Town Property and by-law enforcement.
- 5.2. Where compliance with this By-law would be impracticable, this By-law shall not apply to any Emergency Service Vehicle while carrying out its lawful duties.

6. Enforcement

- 6.1. This By-law shall be administered and enforced by the Town, a By-law Enforcement Officer and/or an Officer.
- 6.2. A By-law Enforcement Officer and an Officer may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001* and/or the *Highway Traffic Act*.
- 6.3. No Person shall obstruct or hinder, or attempt to obstruct or hinder, any By-law Enforcement Officer or Officer in the exercise of a power or the performance of a duty under this By-law.

7. Penalty

- 7.1. Any offence created by this By-law is not subject to the penalty provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.
- 7.2. Subject to section 7.1, any Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Highway Traffic Act*.
- 7.3. Administrative Penalty System By-law No. 4353(2022) applies to each administrative penalty issued pursuant to this By-law.

- 7.4. Every Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty System By-law No. 4353(2022), be liable to pay to the Town an administrative penalty in accordance with that By-law.
- 7.5. For greater certainty, both the driver and the owner of a Motor Vehicle are liable to the penalties prescribed by section 7.3 and section 7.4 of this By-law unless, at the time of the offence or By-law contravention, the Motor Vehicle was in the possession of a person other than the owner without the consent of the owner.
- 7.6. A By-law Enforcement Officer or Officer, upon the discovery of a Motor Vehicle Parked or left in contravention of this By-law may cause the Motor Vehicle to be moved or taken to and placed or stored in a suitable place, and all costs and charges for the removal, care, and storage thereof, if any, are a lien upon it that may be enforced in the manner provided by the *Repair and Storage Liens Act*.
- 7.7. Notwithstanding any other provision of this By-law, a By-law Enforcement Officer may, before removing or causing to be removed the Motor Vehicle as provided for in this By-law, issue and attach to the Motor Vehicle a Town parking infraction notice alleging that the provisions of this By-law have been contravened.

8. General

- 8.1. The short title of this By-law is the "Town Property Parking By-law".
- 8.2. If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.
- 8.3. If there is a conflict between a provision of this By-law and a provision of any other By-law of the Town, the provision that establishes the higher standard shall prevail.
- 8.4. This By-law shall be read with all changes in number or gender as are required by context.
- 8.5. Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 8.6. The Town Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

9. Effective Date

9.1. This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 22nd day of August, 2022.

Marvin Junkin, Mayor

Holly Willford, Town Clerk