



<b>Policy Name: Donations to the Town of Pelham</b>	<b>Policy No: S400-11</b>
Committee approval date:	-
Council approval date:	-
Revision date(s):	-
Department/Division:	Corporate Services

### 1. Purpose

The purpose of this policy is to establish authority, guidelines and procedures for the acceptance and administration of donations that organizations, community groups or individuals may wish to make to The Corporation of the Town of Pelham ("the Town").

### 2. Policy Statement

The Town recognizes the valuable contribution donations can make to support Town initiatives, projects, programs and services. The Town is committed to establishing policies and procedures to ensure that all potential donations are addressed in a transparent and consistent manner.

This policy applies to all financial, in-kind and real property donations proposed or made to the Town by an individual, corporation, organization, community group or other entity. This policy does not apply to grants received by the Town, fundraising initiatives undertaken by the Town or sponsorship agreements or arrangements between the Town and any other entity.

### 3. Definitions

**"Advantage"** means the total value of all property, services, compensation or other benefits that a Donor is entitled to receive in relation to a Donation at the time the Donation is made.

**"Clerk"** means the Clerk of the Town.

**"Council"** means the municipal Council of the Town.

**"Department"** means a functional division within the administrative structure of the Town.

**"Designated Donation"** means a Donation that the Donor specifies is intended to support a particular Town initiative, project, program or service.



**“Designate”** means an individual assigned the duties and responsibilities on behalf of or in the absence or incapacity of the individual charged by the Town with principal authority to undertake the relevant action or decision.

**“Director”** means the head of a Department or their Designate.

**“Donation”** means a gift or transfer of money, tangible property, Real Property, intellectual property or services that is made voluntarily and without compensation or non-monetary consideration to the Donor such as advertising, promotion or services.

**“Donor”** means any individual, corporation, organization, community group or other entity that makes a Donation to the Town.

**“Eligible Amount”** means the amount by which the Fair Market Value of an Eligible Donation exceeds the value of any corresponding Advantage received or receivable by the Donor.

**“Eligible Donation”** means a Donation for which an Official Receipt can be issued pursuant to Canada Revenue Agency guidelines.

**“Fair Market Value”** means the highest dollar value that a property would bring in an open and unrestricted market between a willing buyer and a willing seller who are knowledgeable, informed and acting independently of each other.

**“Financial Donation”** means a Donation of money in any form including cash, e-transfer, pre-authorized withdrawal, debit or credit card payment, cheque, or other negotiable instrument payable to the Town.

**“Ineligible Donation”** means a Donation for which an Official Receipt cannot be issued pursuant to Canada Revenue Agency guidelines.

**“In-Kind Donation”** means a Donation of tangible property other than money or Real Property and includes objects such as artwork, furniture, equipment, securities and similar items.

**“Naming Rights”** means the use or display of a name selected by a Donor for a Town program or on all or part of a Town asset for a defined period of time in exchange for a Donation.

**“Official Receipt”** means a receipt issued by the Town under the *Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.), for an Eligible Donation made to the Town, which may be used by the Donor to claim a tax credit on the Donor’s income tax return.

**“Real Property”** means any land or building in the Town.



**“Town”** means The Corporation of the Town of Pelham or the geographic area of the municipality, as the context requires.

**“Undesignated Donation”** means a Donation that the Donor does not specify is intended to support a particular Town initiative, project, program or service.

#### **4. General Provisions**

##### **4.1 Acceptable Donations**

Donations must be for purposes aligned with the vision, values and strategic priorities of the Town and must be deemed by the Town, in its sole discretion, to be in the public interest. The Town reserves the right to accept or decline any Donation.

Donations must comply with all applicable federal and provincial laws and all applicable by-laws, policies and practices of the Town. Without limiting the generality of the foregoing, the Town will not accept a Donation:

- i. that may adversely impact the reputation or public image of the Town;
- ii. that will result in a financial or other benefit to the Donor or to any person not dealing at arm's length to the Donor as a result of the Donation;
- iii. that is conditional upon an endorsement of the Donor's business, product or service by Council or the Town;
- iv. that confers a personal benefit on any member of Council or employee of the Town;
- v. that will cause any member of Council to receive a gift or benefit that may contravene Policy No. S201-15, Code of Conduct for Members of Council and Local Boards;
- vi. that will cause any Town employee to receive a gift or benefit that may contravene Policy No. S600-4, Employee Code of Conduct;
- vii. the nature of which promotes or condones hatred or discrimination against individuals or groups or may incite violence;
- viii. from a Donor that is an active applicant for any permit, approval or licence from the Town;
- ix. from a bidder in an active procurement process conducted by the Town under Policy No. S402-00, Procurement Policy – Purchasing Goods and Services;
- x. from a Donor that is disqualified from doing business with the Town for any reason;



- xi. from a Donor that is engaged or involved in litigation with the Town;
- xii. from organizations that promote, directly or indirectly, hatred, discrimination or violence against individuals or groups; or
- xiii. from proven or suspected criminal organizations.

The act of making a Donation does not give rise to any partnership, business venture or agency relationship between a Donor and the Town. The Town will have ownership of and control over all accepted Financial Donations, In-Kind Donations and Real Property Donations.

Donations must not cause unplanned operating or capital expenditures or a significant administrative burden and will be accepted only if the Town has, in its sole discretion, the capacity to meet the initial, future and reasonably anticipated ongoing costs and obligations associated with the Donation.

The Town may accept Designated Donations and Undesignated Donations. If the amount or value of a Designated Donation exceeds the requirements for the specified initiative, project, program or service, the excess will be deemed to be an Undesignated Donation.

The Town may accept the involvement of charitable organizations and/or community groups in fundraising, public events or other activities for projects related to the construction, repair or enhancement of Town-owned facilities. However, such participation is not a Donation.

No individual, corporation, charitable organization, community group or other entity may solicit Donations in the name of the Town or on its behalf without the express written permission of the Town except in the course of a public event that is organized and managed by the Town.

## **4.2 Financial Donations**

The Town will accept all Financial Donations that comply with subsection 4.1, including Designated Donations or Undesignated Donations.

A Financial Donation of more than five thousand dollars (\$5,000) requires a written agreement outlining the terms and conditions of the Donation, which agreement must be satisfactory to the Town Solicitor and be signed by the Donor and the Town before the Donation is received by the Town.



### **4.3 In-Kind Donations**

The Town will evaluate In-Kind Donations based on their condition, value and usefulness to the Town. The Donor must submit a written valuation of Fair Market Value of the In-Kind Donation for consideration by the Town. If the Fair Market Value of an In-Kind Donation cannot be determined, it may be accepted by the Town as an Ineligible Donation.

In-Kind Donations to the Town must be free and clear of all encumbrances, conditions and restrictions and must provide that the use of the Donation is entirely at the discretion of the Town. Acceptance of an In-Kind Donation requires a written agreement transferring title or ownership, which agreement must be satisfactory to the Town Solicitor and be signed by the Donor and the Town before the In-Kind Donation is received by the Town.

Unless the Town agrees otherwise, the Donor is responsible for costs related to making an In-Kind Donation, which may include but are not limited to transportation, appraisal, insurance and cleaning costs for the Donation, which costs are not Eligible Amounts. If the Town agrees to incur any such costs, the Department that receives the benefit of the In-Kind Donation will fund them.

### **4.4 Real Property Donations**

The Town will accept Real Property Donations only with the prior approval of Council, which must include budget approval for any initial, future or reasonably anticipated ongoing costs and obligations associated with the Donation. The Donor must provide consent for the Town to obtain, at its expense, a written appraisal of the Fair Market Value of the Real Property and a title search and/or such other searches or inquiries as may be necessary to identify any encumbrances on the Real Property. The Town will provide the appraisal and disclosure of any encumbrances on the Real Property for consideration by Council.

Real Property Donations must provide that the use of the Donation is entirely at the discretion of the Town, including disposition of the Real Property if the Town, in its sole discretion, determines it to be appropriate. Acceptance of a Real Property Donation requires a written agreement transferring title, which agreement must be satisfactory to the Town Solicitor and be signed by the Donor and the Town before the Donation is received by the Town.



Unless Council directs otherwise, the Town is responsible for costs related to receiving a Real Property Donation, which may include appraisal and legal costs incurred by the Town and/or the Donor. The Director of Corporate Services will determine the funding source for all costs to be incurred by the Town.

#### **4.5 Naming Rights**

The Town may grant Naming Rights to a Donor to provide recognition of a Financial Donation, In-Kind Donation of Real Property Donation where the requirements of this policy and of Policy No. S201-03, Naming of Corporate Assets, are met.

The Town will grant Naming Rights only with prior Council approval of the request and the name(s) proposed by the Donor. The naming of a Town program or asset is important for public awareness and promotion. As such, Naming Rights will be granted only where the request and the proposed name(s) are aligned with the vision, values and strategic priorities of the Town and will not adversely impact its reputation or public image.

Factors to be considered in relation to a request for Naming Rights include but are not limited to:

- i. the significance of the Donation relative to the construction and operating costs of the program or asset to be named;
- ii. the cost of establishing the name(s) proposed by the Donor;
- iii. the length of time that the name(s) will be used; and
- iv. the potential for extension or renewal of Naming Rights if a further Donation is received.

The name(s) proposed by a Donor will be assessed based on the principles and criteria set out in Policy No. S201-03, Naming of Corporate Assets.

The final decision on naming any Town program or asset rests with Council.

The Town reserves the right to rescind or revoke Naming Rights, with Council approval, where the subsequent conduct of a Donor or any entity acting on behalf of a Donor is such that the Naming Rights and/or the name(s) established thereunder is not in the public interest or may have an adverse impact on the reputation or public image of the Town.





A conferral of Naming Rights requires a written agreement outlining the Town program or asset to be named, the name(s) to be used, the length of time that the name(s) will be used and any other terms and conditions of the Donation and/or the Naming Rights, which agreement must be satisfactory to the Town Solicitor and be signed by the Donor and the Town before the Naming Rights are implemented.

Where there is no prospective economic benefit to a Donor arising from or associated with Naming Rights granted in exchange for a Donation, there is no Advantage that impacts the Eligible Amount of the Donation,

Where Naming Rights will result in a direct economic benefit to the Donor, the Financial Donation, In-Kind Donation of Real Property Donation made by the Donor in exchange for Naming Rights is an Ineligible Donation.

#### **4.6 Donor Acknowledgment**

The Town will acknowledge Donations in a manner appropriate to their value and nature and consistent with the expressed wishes of the Donor. This may involve a letter of appreciation from the Town, inclusion in communications to the public recognizing Donors, recognition of the Donor and/or the Donation by Council at a regular meeting, or such other acknowledgment(s) as may be determined by the Town.

In cases where a Donor does not wish to have public acknowledgement, the Town will honour that request unless disclosure is required by law, including but not limited to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56.

#### **4.7 Managing and Reporting Donations**

The Chief Administrative Officer and Director of Corporate Services or their Designate(s) have joint authority to accept or decline proposed Donations with a value of up to ten thousand dollars (\$10,000). Where a Donation is declined, the Chief Administrative Officer or Designate may, in their sole discretion, advise the Donor in writing of the reason(s).

Proposed Donations with a value in excess of ten thousand dollars (\$10,000) will be presented to Council, which has authority to accept or decline them. Where a Donation is declined by Council, the Clerk will advise the Donor in writing of the reason(s).

The Town will deposit and record all Financial Donations in the appropriate account(s). Donations may not be managed informally or held in personal or external accounts or trust funds.



Designated Donations will be deposited to the account of the identified Town initiative, project, project, program or service. Undesignated Donations will be deposited to a reserve fund established by the Town for this purpose.

The Town will maintain proper books and records documenting Donations and all Official Receipts issued. Copies of Official Receipts must be retained in accordance with the records retention policies of the Town.

The Director of Corporate Services or Designate will provide an annual report to Council on all Donations accepted by the Town in the preceding year.

Donations may be used only for their intended purpose and in accordance with the provisions of this policy and with the terms and conditions of any agreement governing the use of a Donation.

#### **4.8 Official Receipts**

The Town will issue an Official Receipt for any Eligible Donation, including Financial Donations, In-Kind Donations and Real Property Donations, with a value of twenty dollars (\$20) or more.

Official Receipts will be made in the name of the Donor only.

The Official Receipt may record only the Eligible Amount of a Donation. If the Donor receives any Advantage in consideration of the Donation, the Fair Market Value of the Advantage is deducted from the Fair Market Value of the Donation to determine the Eligible Amount.

The Eligible Amount of a Financial Donation for which an Official Receipt will be issued is the full amount of the Donation less any Advantage.

The Eligible Amount of an In-Kind Donation for which an Official Receipt will be issued is the Fair Market Value of the Donation less the Fair Market Value of any Advantage. The Fair Market Value of the In-Kind Donation must be substantiated by an independent appraisal or other third party supporting documentation satisfactory to the Town.

The Town will not issue an Official Receipt for any Ineligible Donation, which include:

- i. intangibles such as services, time, skills and effort;
- ii. sponsorship in the form of money, goods or services toward an event, project, program or corporate asset in return for commercial benefit;





- iii. Donations that are intended as a flow through to a specified recipient that does not have charitable organization status;
- iv. business marketing products such as supplies and merchandise;
- v. Donations for which the Fair Market Value of an Advantage is greater than eighty percent (80%) of the Fair Market Value of the Fair Market Value of the Donation;
- vi. Donations for which the Fair Market Value of an Advantage cannot be determined; and
- vii. In-Kind Donations for which the Fair Market Value cannot be determined.

The Director of Corporate Services or Designate is responsible for authorizing the issuance and amount of Official Receipts in accordance with this policy and all Canada Revenue Agency guidelines and requirements.

## **5. Attachments**

None.