

## REGULAR COUNCIL AGENDA

**C-15/2023**

**Wednesday, August 16, 2023**

**9:00 AM**

**Meridian Community Centre - Accursi A and B**

**100 Meridian Way**

**Fonthill, ON**

**L0S 1E6**

The Town of Pelham is holding hybrid meetings of Council and Committee in accordance with Procedure By-law 4507(2022). Public access to meetings will be provided in-person at the location indicated on the agenda, via Livestream: [www.youtube.com/townofpelham/live](https://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

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### Pages

- 1. Call to Order and Declaration of Quorum**
- 2. National Anthem**
- 3. Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.

4.	Approval of the Agenda	
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## 11. Unfinished Business

## 12. New Business

## 13. Motions and Notices of Motion

## 14. Resolution to Move In Camera

BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the *Municipal Act*, as follows:

(b) - personal matters about an identifiable individual, including municipal employees - 1 item (Consideration of Appointments to Advisory Committees)

(d) labour relations or employee negotiations - 1 item (CUPE 1287)

## 15. Rise From In Camera

## 16. Appointment(s) to Advisory Committees

## 17. Confirming By-Law 110 - 110

## 18. Adjournment

## **REGULAR COUNCIL MINUTES**

**Meeting #:** C-14/2023  
**Date:** Wednesday, July 26, 2023  
**Time:** 9:00 AM  
**Location:** Meridian Community Centre - Accursi A and B  
100 Meridian Way  
Fonthill, ON  
L0S 1E6

**Members Present:** Mayor Marvin Junkin  
Councillor Bob Hildebrandt  
Councillor John Wink  
Councillor Kevin Ker  
Councillor Shellee Niznik  
Councillor Brian Eckhardt

**Regrets:** Councillor Wayne Olson

**Staff Present:** Bob Lymburner  
Jason Marr  
Teresa Quinlin-Murphy  
Jennifer Stirton  
Vickie vanRavenswaay  
Barbara Wiens  
Sarah Leach  
William Tigert

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### **1. Call to Order and Declaration of Quorum**

Noting that a quorum was present, the Mayor called the meeting to order at approximately 9:00am.

### **2. National Anthem**

### **3. Land Recognition Statement**

The Mayor read the land acknowledgement into the record.

### **4. Approval of the Agenda**

**Moved By** Councillor John Wink

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT the agenda for the July 26, 2023,  
Regular meeting of Council be adopted, as circulated.**

**Carried**

**5. Disclosure of Pecuniary Interests and General Nature Thereof**

None were declared.

**6. Hearing of Presentation, Delegations, Regional Report**

**6.1 Presentations**

**6.1.1 Mayors Youth Advisory Collective, Results of 2023 Youth Forum**

Jack Cunningham and Jessica Sung of the Mayors Youth Advisory Collective provided a presentation on the results of the 2023 youth forum. A copy is attached to the agenda and is available through the Clerk.

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor Shellee Niznik

**BE IT RESOLVED THAT Council receive the Results of 2023 Youth Forum presentation from the Mayors Youth Advisory Collective, for information.**

**Carried**

**7. Adoption of Council Minutes**

**Moved By** Councillor Kevin Ker

**Seconded By** Councillor John Wink

**BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:**

**1. C-13/2023 - Regular Council Meeting - July 5, 2023**

**Carried**

**8. Request(s) to Lift Consent Agenda Item(s) for Separate Consideration**

**9. Consent Agenda Items to be Considered in Block**

**Moved By** Councillor John Wink

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT the Consent Agenda items as listed on the July 26, 2023, Council Agenda be received and the recommendations contained therein be approved:**

**9. Consent Agenda Items to be Considered in Block**

**9.1 Presentation of Recommendations Arising from Committee of Council, for Council Approval**

**BE IT RESOLVED THAT Council hereby approves the Recommendations Resulting from the following:**

- 1. PCOW-06/2023 - Public Meeting under the Planning Act - July 12, 2023**

**9.2 Minutes Approval - Committee of Council**

**BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:**

**PCOW-06/2023 - Public Meeting under the Planning Act - July 12, 2023**

**9.3 Staff Reports of a Routine Nature for Information or Action**

**9.3.1 Q2 2023 Fire and By-law Department, 2023-0162-Fire Dept**

**BE IT RESOLVED THAT the Q2/2023 Fire and By-law Enforcement Department Report be received for information.**

**9.3.2 Q2 2023 Clerks Quarterly Report, 2023-0153-Clerks**

**BE IT RESOLVED THAT the Q2/2023 Clerk's Report be received for information.**

**9.3.3 Q2 2023 Corporate Services Quarterly Report, 2023-0115-Corporate Services**

**BE IT RESOLVED THAT the Q2/2023-0115 Corporate Services Department Report be received for information.**

**9.3.4 Q2 2023 Planning and Development Quarterly Report, 2023-0149-Planning**

**BE IT RESOLVED THAT the Q2/2023 Community Planning and Development Department Report be received for information.**

**9.3.5 Q2 2023 RCW Quarterly Report , 2023-0173-Recreation**

**BE IT RESOLVED THAT 2023-0173-Recreation Q2 2023 Recreation, Culture and Wellness Department Report be received for information.**

**9.3.6 Q2 2023 Public Works Department Quarterly Report, 2023-0169-Public Works**

**BE IT RESOLVED THAT the Q2/2023 Public Works Department Report be received for information.**

**9.3.7 Municipal Class Environmental Assessment Process Information Report, 2023-0164-Public Works**

**BE IT RESOLVED THAT Council receive Report #2023-0164 – Municipal Class Environmental Assessment Process, for information.**

**9.4 Information Correspondence**

**9.4.1 Ministry of Natural Resources and Forestry Proposed Amendments on Environmental Registry**

**BE IT RESOLVED THAT Council receive correspondence from the Ministry of Natural Resources and Forestry regarding input on proposed amendments to the Forest Management Planning Manual, Forest Information Manual and Scaling Manual, for information.**

**9.5 Regional Municipality of Niagara Correspondence for Information or Action**

**9.5.1 Niagara Region 2022 Annual Financial Report**

**BE IT RESOLVED THAT Council receive Niagara Region's 2022 Annual Financial Report, for information.**

**9.6 Advisory Committee Minutes for Information**

**9.6.1 Committee of Adjustment - April 3, 2023**

**BE IT RESOLVED THAT Council receive the Committee of Adjustment minutes dated April 3, 2023, for information.**

**9.6.2 Joint Accessibility Advisory Committee Minutes - July 13, 2023**

**BE IT RESOLVED THAT Council receive the Joint Accessibility Advisory Committee minutes dated July 13, 2023, for information.**

**Carried**

**10. Consent Agenda Item(s) Lifted for Separate Consideration, if any**

**11. Presentation and Consideration of Reports**

**11.1 Staff Reports Requiring Action**

**11.1.1 Procurement Policy Revisions, 2023-0155-Town Solicitor**

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor Shellee Niznik

**BE IT RESOLVED THAT Council receive Report # 2023-0155 – Procurement Policy Revisions, for information;**

**AND THAT Council approve the revisions to Policy S402-00, Procurement Policy – Purchasing Goods and Services.**

**Carried**

**11.1.2 2023 Road Rehabilitation Program Budget Exceedance , 2023-0172-Public Works**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor John Wink

**BE IT RESOLVED THAT Council receive Report # 2023-0172 2023 Road Rehabilitation Program Budget Exceedance, for information;**

**AND THAT Council approve the award of the 2023 Road Rehabilitation Program to Walker Construction Limited in the amount of \$1,099,319 without Provisionals and plus applicable net taxes of \$19,348, for a total project cost of \$1,118,667;**

**AND THAT Council approve a budget increase of \$118,667 for project RD 09-23 (cost centre 300643);**

**AND THAT Council approves the additional funding for the 2023 Road Rehabilitation transferred from the Roads Reserve.**

**Carried**

**11.1.3 MCC User Group Licence Agreements, 2023-0165-Town Solicitor**

Councillor Hildebrandt requested the motion be divided to consider the license agreements with the Pelham Panthers Hockey Club separately.

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT Council receive Report # 2023-0165 – MCC User Group Licence Agreements, for information;**

**AND THAT Council authorizes and directs staff to enter into licence agreements with the following organizations, which agreements shall be in a form satisfactory to the Town Solicitor and substantially the same as the draft licence agreements attached hereto:**

- i. **Niagara Centre Skating Club**
- ii. **Pelham Minor Hockey Association**
- iii. **Pelham Panthers Basketball Association**
- iv. **Southern Tier Admirals Hockey Corporation**

**Carried**

**Moved By** Councillor Bob Hildebrandt  
**Seconded By** Councillor Kevin Ker

**THAT Council defer consideration of entering into licence agreements with the Pelham Panthers Hockey Club Limited until the Regular Meeting of Council scheduled August 16, 2023.**

**Carried**

**12. New Business**

**13. Presentation and Consideration of By-Laws**

**Moved By** Councillor Kevin Ker  
**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT the Council of the Town of Pelham, having given due consideration to the following By-law do now read a first, second and third time and do pass same, and**

**THAT the Mayor and Clerk be and are hereby authorized to sign and seal the by-law:**

- 1. By-law 43-2023 - Being a by-law to amend By-law 13-2023, confirming various appointments to Advisory Committees of the Town of Pelham for the 2022-2026 Term of Council and to appoint and remove Member(s) to the Pelham Seniors Advisory Committee.**
- 2. By-law 44-2023 - Being a By-law to license, regulate and govern the keeping of hens in the Town of Pelham.**
- 3. By-law 45-2023 - Being a By-law to amend Zoning By-law 4481(2022), as amended, to rezone lands located at 1112 Haist Street, legally described as Part of Lot 3, Concession 9, Town of Pelham, Regional Municipality of Niagara, from the Residential-One (R1) zone to the Residential-Two (R2) zone. File No. AM-03-2023.**

**Carried**

**14. Motions and Notices of Motion**

**15. Resolution to Move In Camera**

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor John Wink

**BE IT RESOLVED THAT** the next portion of the meeting be closed to the public in order to consider the following pursuant to Section 239(2) and 239(3) of the Municipal Act:

**Section 239(2)(f) advice that is subject to solicitor-client privilege (1 Item)**

**Section 239(3.1) - Educational or training sessions (2 Items)**

**16. Rise From In Camera**

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor John Wink

**BE IT RESOLVED THAT** Council adjourn the In Camera Session and that Council do now Rise with report;

**AND THAT** the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of July 26, 2023.

**Carried**

**17. Confirming By-Law**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT** the following By-law be read a first, second and third time and passed:

**Being a By-law No. 46-2023 to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Regular Meeting held on the 26th day of July, 2023.**

**Carried**

**18. Adjournment**

**Moved By** Councillor Kevin Ker

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT** this Regular Meeting of Council be adjourned until the next regular meeting scheduled for August 16, 2023 at 9:00 am.

**Carried**

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Mayor: Marvin Junkin

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Town Clerk: William Tigert

**Subject:** Consolidated Linear Infrastructure Environmental Compliance Approval

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0174 – Consolidated Linear Infrastructure Environmental Compliance Approval, for information;**

**Background:**

The Ministry of the Environment, Conservation and Parks (MECP) is adopting a new approach to issuing Environmental Compliance Approvals (ECA) for low-risk projects related to municipal sanitary collection and stormwater management systems that the Town is required to comply with called the Consolidated Linear Infrastructure Environmental Compliance Approval (CLI ECA) program. The purpose of the CLI ECA is to advance public infrastructure and development projects sooner by reducing the time it takes to review and approve applications by the Ministry and/or Niagara Region through the Transfer of Review. The transition of the ECA review and approval process to municipalities is required and also introduces new responsibilities and work that Town staff have previously not undertaken.

Through the CLI ECA process, the Town will no longer have to submit individual “pipe-by-pipe” applications for future alterations, provided they are designed and constructed in accordance with the latest MECP design criteria. These pre-authorizations allow municipalities and developers constructing infrastructure on behalf of municipalities to proceed without having to obtain Ministry permission.

The new CLI ECA process will replace the current process for lower risk and routine sewage works, which requires direct submission to the MECP or the Niagara Region as part of the Transfer of Review program. The new process will also reduce review times to weeks instead of months, allowing development and capital projects to proceed much sooner. The Transfer of Review program where the Region reviews those applications for the Town is being phased out as part of the new CLI ECA program.

Also, new operations, maintenance, and reporting requirements are part of the new CLI ECA process. The new CLI ECA process has been modeled after the current

framework for municipal drinking water systems, the Drinking Water Quality Management Standard (DWQMS).

### **Analysis:**

Town staff have submitted the application to the MECP to enter into the CLI ECA program and are awaiting the review from the Ministry. Once reviewed by the Ministry, it is anticipated that the application will come back with a series of conditions such as additional studies, reports, and operations and maintenance plans that need to be prepared along with deadlines for providing said information. The scope of work to implement the new CLI ECA process has not yet been fully defined, however, discussions with other local area municipalities who are further along in the process indicate that there is a large amount of administrative work Town staff will need to undertake to satisfy the conditions to enter into the CLI ECA program, as well as administer the program for the Town year-over-year.

Once the Town has entered into the CLI ECA process, the Town will be responsible for reviewing and approving all planned low-risk sanitary and stormwater for Town-led and developer-led applications. Providing developers with the approvals for low-risk sanitary and storm works through the new CLI ECA process also presents an opportunity for the Town to charge application fees similar to the current process. This will also require that Staff establish a new business process to review the applications, collect fees, obtain as-built drawings and testing and inspection reports, and report the infrastructure changes to the MECP within mandatory time frames. It is anticipated that Town Staff will review and issue ECAs for approximately seven (7) subdivision developments between the time of this report and the end of 2024.

Also included in the CLI ECA requirements are enhanced operations and maintenance procedures as well as reporting requirements. Operations and maintenance (O&M) manuals that are system specific are to be developed for the sanitary sewer and stormwater management systems. These O&M manuals are to include requirements and processes for inspection, reporting, sampling, testing, monitoring, repair, emergency response, and more. The O&M manuals will need to be updated as time progresses and provided to the MECP upon request. It is anticipated that the O&M manuals need to be prepared by the end of 2024.

Monitoring plans are also required as part of the CLI ECA program. These plans are to be prepared based on the requirements of MECP, and monitor things such as operational performance of infrastructure, trends and assessments of environmental impact, quantity and quality control, and more. It is anticipated that the Town needs to have monitoring plans for both the sanitary system and the stormwater management system by May 2025. It is required by the MECP that the

monitoring plans be audited annually by a third-party Qualified Person, similar to the existing DWQMS program that the Town is mandated to comply with.

Lastly, annual performance reports of the sanitary and stormwater management systems are to be prepared, submitted to the Director of the MECP, and made available to the public on the Town's website. These reports will include a summary of monitoring data, environmental trends, operating problems encountered, corrective actions taken, complaints, inspection and maintenance activities undertaken, and more. At this point in time, it is anticipated that Town Staff will need to prepare the first reports as per the aforementioned requirements by the end of 2024.

The full scope of work to implement and oversee the requirements of the CLI ECA process have yet to be determined. However, through initial discussions with other local area municipalities and review of the requirements of the program, it is evident that the workload associated with administering this new process will be substantial. Dedicated resources will be required to take on this added responsibility for the Town, and will be addressed in a future report to Council.

There are many significant benefits to the new CLI ECA process being implemented by the MECP. The ability of the Town to review and approve low-risk sanitary and stormwater management ECA applications within Pelham reduces the approval time from upwards of 12 months down to approximately four weeks, if resources are available. The Town reviewing and approving ECAs for developers also creates an opportunity for a new revenue stream. Enhanced operations, maintenance, monitoring, and reporting requirements help protect the natural environment, as well as the community through early detection of potential issues in infrastructure.

### **Financial Considerations:**

Given that the full scope of this new process has not yet been defined, the full financial impact cannot be determined. Based on the aforementioned requirements and consultation with other local area municipalities, Staff has prepared budget items that will be presented in the 2024 Capital Budget that will address some of the maintenance and reporting requirements of the CLI ECA, such as a stormwater management facility cleanout project.

As previously mentioned in this report, an additional staff member may be required to oversee and administer the CLI ECA process and ensure the Town complies with all requirements of the program. Said person will be responsible for preparing and updating all O&M manuals, reviewing and approving ECA applications, administering the monitoring plans, preparing annual performance reports, and more. The specifics of this potential position will be brought to Council at a later date for consideration.

There are opportunities to generate revenue through the ECAs that get issued by the Town as part of this program. As it currently stands, developers may be charged up to approximately \$6,000 for an ECA approval through the MECP and/or Niagara Region. Given that this will become the Town's responsibility to issue ECAs for applications within Pelham, the Town will be able to generate revenue from the review and approval of said applications. Municipalities across Ontario have a different fee structure in place, and some municipalities that are further ahead in the CLI ECA process have increased the fees for an ECA review to offset some of the costs associated with the additional resources required to administer this new process. Therefore, there are financial opportunities associated with the new CLI ECA process.

#### **Alternatives Reviewed:**

This report is strictly for information on the new Consolidated Linear Infrastructure Environmental Compliance Approvals process required by the Ministry of the Environment, Conservation, and Parks that the Town is mandated to comply with. Therefore, no alternatives were reviewed in preparation for this report.

#### **Strategic Plan Relationship: Environmental and Climate Change Adaptation**

While the new CLI ECA process will reduce the ECA approval timeline and allow developers and the Town to proceed with construction quicker than current timelines, it will also help the Town in adapting to the impacts of climate change. One of the more known impacts of climate change is increasing temperatures year-round. Increased temperatures can warm stormwater management ponds and the water that outlets into the natural environment. Some receiving watercourses are temperature sensitive based on the wildlife it is home to. Monitoring the stormwater management ponds as per the requirements of the new CLI ECA will help generate a better understanding of the impact Town-owned infrastructure has on the receiving waterbodies and environment and identify if measures are required to better protect the environment.

#### **Consultation:**

Consultation was had with Consolidated Linear Infrastructure Environmental Compliance Approval Niagara Working Group in preparation of this report.

#### **Other Pertinent Reports/Attachments:**

None

#### **Prepared and Recommended by:**

Lucas Smith, B. Eng., E.I.T.

Engineering Technologist

Jason Marr, P. Eng.  
Director of Public Works

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**Subject:** RE: Niagara Escarpment Biosphere Request for Endorsement

**From:** Niagara Escarpment Biosphere Network <[info@nebnetwork.org](mailto:info@nebnetwork.org)>

**Date:** July 28, 2023 at 11:44:30 AM EDT

**To:** Marvin Junkin <[MJunkin@pelham.ca](mailto:MJunkin@pelham.ca)>

**Cc:** Amanda Harwood <[amandaharwood@plentycanada.com](mailto:amandaharwood@plentycanada.com)>, "Patrick J. Robson" <[PRobson@niagaracollege.ca](mailto:PRobson@niagaracollege.ca)>, Charlen Winger-Jones <[walkingwatertar@gmail.com](mailto:walkingwatertar@gmail.com)>, Sarah Leach <[SLeach@pelham.ca](mailto:SLeach@pelham.ca)>

**Subject:** Niagara Escarpment Biosphere Request for Endorsement

July 28, 2023

Dear Mayor Marvin Junkin:

**RE:** Niagara Escarpment Biosphere Request for Endorsement

On behalf of the Niagara Escarpment Biosphere Network's (NEBN) Board of Directors, we are engaging with municipal leaders, such as yourself, Mayor Junkin along the Niagara Escarpment to build more awareness and support for our newly established organization. The Niagara Escarpment Biosphere (NEB), which has previously been attached to the Niagara Escarpment Commission, has been reconstituted to be a non-governmental organization. This is a critical shift in oversight responsibilities as the NEBN has been established to support the management of the NEB as a community-led, grassroots organization that will work to meet the criteria and standards required by United Nations Educational, Scientific, and Cultural Organization (UNESCO) Man and the Biosphere Programme.

UNESCO directed a renewed NEB model as it was no longer appropriate to have management oversight connected within a government agency. In 2021, the Transition Leadership Committee and Plenty Canada (an Indigenous not-for profit organization working to share resources with Indigenous Peoples and community groups around the world in support of environmental sustainability) signed a memorandum-of-understanding to work together on developing this new co-governance structure. Work has been progressing and last Spring (2022), the NEBN became officially incorporated under provincial regulations.

The NEBN is now the official entity that is working on a renewed mandate and continued designation of the NEB. We are at a point now where we need your help. As a municipality within the Niagara Escarpment area, we need your leadership and the endorsement of your Council to re-commit to the community's support of the Niagara Escarpment Biosphere. With the NEB designation currently under UNESCO review, your endorsement will be key in ensuring we maintain this important globally recognized designation.

We have drafted a proposed motion and we are asking you to put it before your Council for endorsement. If you require a member of the NEBN to attend a Council meeting to help gain your Council's support, a member of our team will be more than willing to attend. Also, we have included some additional facts about the NEBN, and you can also check out our website <http://nebnetwork.org> or email us at [info@nebnetwork.org](mailto:info@nebnetwork.org) to learn more.

Thank you for your consideration in this very important matter.

Sincerely,

Walter Sendzik, NEBN Board Member and former Mayor of the City of St. Catharines

Cc: Patrick Robson, NEBN Chair  
Charlene Winger, NEBN Vice-Chair  
Amanda Harwood, Plenty Canada



### **What is the Niagara Escarpment Biosphere?**

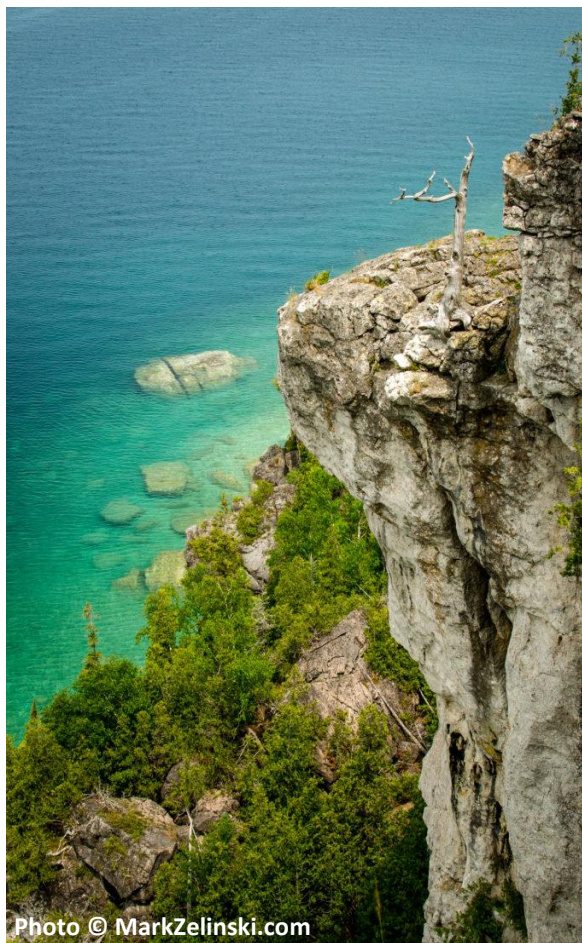
In recognition of its unique ecological characteristics, the Niagara Escarpment Biosphere (NEB) located in south-central Ontario was designated as United Nations Educational, Scientific and Cultural Organization (UNESCO) World Biosphere in 1990. It is the largest continuous stretch of forested area remaining within Ontario reaching 725 km from Lake Ontario to tip of the Bruce Peninsula. It encompasses two major biomes (Boreal Forest and Temperate Broadleaf Forest), contains 30+ regions/municipalities, and many other diverse natural and urban environments.

The NEB is comprised of three separate zones, including core zones, buffer zones and transitional zones, enveloping approximately 194,555 hectares of land. The unique composition of these three characteristic zones allows for the NEB to conserve biodiversity while simultaneously promoting sustainable development where appropriate. Given the expansive area of the NEB, it is appropriate to accommodate the needs of a number of partners and provide ample opportunity for community engagement. UNESCO does not subscribe to any single model of governance, therefore, governance across the Biosphere's of different countries varies significantly, depending largely on the objectives and goals of partners and nearby communities.

### **What is the Niagara Escarpment Biosphere Network?**

Following the most recent periodic review of the NEB by UNESCO, fundamental changes were required to maintain the critical UNESCO Biosphere Designation. A key recommendation was how the NEB was governed and how it engaged with partners - especially Indigenous Peoples. To guide a governance transition, a Transition Leadership Committee (TLC) has been established to facilitate the transition.

The NEB has transitioned from a government oversight model to a citizen-led model, including emphasis on meaningful Indigenous engagement and partnership. In fact, TLC is in a co-management framework with Plenty Canada, an Indigenous led organization working to share resources with Indigenous Peoples and community groups around the world in support of environmental sustainability. The Niagara Escarpment Biosphere Transitional Leadership Committee has been working to establish the Niagara Escarpment Biosphere Network (NEBN) as the new entity that will focus on maintaining the biosphere designation in partnership with all communities within the NEB. In March 2022, the NEBN became officially incorporated under provincial regulations.



### **What is the difference between the Niagara Escarpment Commission and the Niagara Escarpment Biosphere Network?**

The Niagara Escarpment Commission (NEC) is a provincially legislated body with a responsibility that focuses on its land use mandate under the Niagara Escarpment Planning and Development Act, guided by the Niagara Escarpment Plan. Ensuring compliance with its regulatory land use policies is an important function of the NEC.

The goal of a UNESCO Biosphere is to promote biodiversity, conservation and relationships between humans and the environment. A recent UNESCO review of the NEB noted a need to better measure conservation, biodiversity, and human relation impacts, not just compliance. This includes promoting biodiversity not only within the NEB but also on adjacent lands. Although this work has been on-going by community groups for many years across the Niagara Escarpment, it has not been captured and networked in a way that provides meaningful inputs into the NEB.

The NEBN is a separate, provincially incorporated entity that will address the missing pieces of the UNESCO designation that includes measuring impacts on the biodiversity of the NEB. The NEBN is a community-led organization that includes partners within the NEB - including an important co-governance model with Indigenous Peoples.

### **Why your support is important to the NEBN?**

To continue to maintain the important Niagara Escarpment Biosphere designation from UNESCO, the NEBN needs the support of First Nations, elected officials, community leaders, educational institutions, environmental groups, business organizations - in essence all groups that see the importance of the Niagara Escarpment as it has been protected for generations.

Through resolutions, stories, letters, and testimonials, the NEBN needs to verify to UNESCO that there is a strong and unified, cross-societal base of support for the continuation of the NEB. Additionally, it is important for UNESCO to see the widespread support for the NEBN as the networking agency that connects the Niagara Escarpment in a way that celebrates all of its benefits – environmental, cultural, economic, and social – with our communities.

## Municipal Resolution in Support of NEBN

**Whereas** the Niagara Escarpment, from Queenston in the south to Tobermory in the north, has been recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as a World Biosphere since 1990;

**And whereas** the Niagara Escarpment Biosphere (NEB) provides a range of very positive returns to Ontarians, including but not limited to promoting biodiversity of both flora and fauna, open landscape, productive agriculture and agri-tourism, traditional Indigenous knowledge and cultural history, eco-system services, a living laboratory for learning, carbon sequestration, climate change mitigation and adaptation;

**And whereas** the NEB is integral to the protection and enhancement agenda for the Great Lakes, especially since several of Ontario's major riverine systems have their headwaters within the NEB that in turn feed into each of Lake Huron, Lake Erie, Lake Ontario and Georgian Bay;

**And whereas** oversight of the NEB has successfully transitioned from the Ontario governmental agency, the Niagara Escarpment Commission to a citizen-centred, not-for-profit organization, namely the Niagara Escarpment Biosphere Network (NEBN);

**And whereas** the NEBN has been established as a Co-Leadership model between Indigenous and Non-indigenous leaders, with a key objective of establishing the future direction of the NEBN as a model of delivering on the worthy goals of Canada's Truth and Reconciliation Commission as well as a demonstrated commitment to the United Nation's Declaration on the Rights of Indigenous Peoples;

**And whereas** the NEBN has made and continues to demonstrate its commitment to partner engagement and collaboration across many sectors and interests, including municipal, environmental, tourism, educational, youth, economic, research, and more;

**And whereas** Town of Pelham Council has demonstrated its commitment to the integrity of the NEB through policy and action over many decades;

**And whereas** the NEBN is seeking continuation of the official UNESCO Biosphere designation for the NEB, with the support of those who call the NEB home for work, play and study;

**Now therefore be it resolved that the** Town of Pelham Council strongly supports the continuation of the UNESCO Biosphere designation for the Niagara Escarpment and for the oversight model that has been established with the NEBN.

**Subject:** Updated Compensation Policy to Include a Living Wage Clause

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0142, for information;**

**AND THAT Council approve the Non-Compensation Policy S600-30, as amended.**

**Background:**

At the May 17, 2023 meeting, Council opted not to officially certify as a living wage employer. Instead, staff were directed to bring forward a policy in August that ensures a living wage is paid to all staff, save and except students.

**Analysis:**

The Town's Non-Union Compensation Policy S600-30 has been updated and is included as Appendix "A" in this report with all changes highlighted. The policy defines the living wage and which employees will receive this rate. The amended policy requires both the Manager of People Services and the Treasurer to ensure the non-union salary grids remain compliant with the updated calculation each year.

While the policy specifically excludes those positions represented by the union, as changes to rates of pay can only be done during negotiations, the Town will do its best to ensure that any current or future rates are adjusted, if necessary, during the collective bargaining process. Presumably the union will agree to any changes that result in increased wages for their membership.

**Financial Considerations:**

There are four non-union part-time positions that currently do not earn \$19.80 per hour, across all steps on the salary grid. Should Council approve this policy, the rates of those impacted will be adjusted on next week's pay. The total cost of these adjustments for the remainder of 2023 will be \$7,635 which will be funded by the

Human Resources Capacity Reserve. The cost for 2024 will be included in next year's budget.

**Alternatives Reviewed:**

Alternative options include officially certifying as a living wage employer through the Ontario Living Wage Network, or leaving the current rates of pay as they are.

**Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

Ensuring a living wage will have multiple benefits to the Town, including a more motivated and productive staff, an increase in employee retention and a decrease in time and money spent on hiring and training.

**Consultation:**

The finance department provided the financial analysis for this report.

**Other Pertinent Reports/Attachments:**

Appendix "A" – Updated Non-Union Compensation Policy S600-30.

Appendix "B" – Previous report on Living Wages.

**Prepared and Submitted by:**

Brianna Langohr, CHRL  
Manager of People Services

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



<b>Is Policy Name: Non-Union Compensation Policy</b>	<b>Policy No: S600-30</b>
Committee approval date:	June 1, 2015
Council approval date:	June 1, 2015
Revision date(s):	June 29, 2021 December 19, 2022
Department/Division:	People Services

## 1. Purpose

**1.1.** This policy provides for a salary administration program for all non-union employees. It is intended to attract, retain, motivate, and reward qualified employees by establishing and maintaining a competitive compensation program while remaining cognizant of the Town's fiscal responsibility to its residents.

## 2. Policy Statement

**2.1.** The Town is committed to remunerating its employees fairly and equitably for the work they perform on behalf of the corporation. The Town will maintain a compensation policy that is internally equitable, externally competitive and pay equity compliant.

## 3. Definitions

**3.1.** In this policy:

**"Acting Pay"** means additional compensation paid to an employee during the Acting Pay Period, which is the greater of ten percent (10%) of the employee's salary in their regular position or the minimum of the higher salary grade.

**"Acting Pay Period"** means the period of time that commences after an employee has worked in a Temporary Assignment for two (2) consecutive weeks and/or ten (10) consecutive business days, whichever is longer, and continues until the end of the Temporary Assignment.

**"Compensation"** refers to any form of monetary remuneration made to an employee for services rendered.



**“Job Evaluation”** is a process to determine the relative value of jobs within an organization utilizing pre-established criteria as a measurement tool so that jobs can be compared to one another and comply with pay equity legislation.

**“Living Wage”** is calculated annually by the Ontario Living Wage Network. The Living Wage is the hourly rate of pay a worker needs to earn to cover the basic expenses of living in Niagara.

**“Red-circled”** is when the job rate of the salary range is less than the current pay of the employee, resulting in a frozen salary.

**“Temporary Assignment”** is a situation in which an employee is tasked with and/or required to assume a substantial proportion of the higher level duties and responsibilities of a position other than their regular position for a limited period of time, the duration of which may or may not be known when the Temporary Assignment commences.

## 4. General Provisions

### 4.1. Pay Equity and Job Evaluation

4.1.1. Salaries are determined by the results of a point factor method of job evaluation. The Town shall maintain a job evaluation system that is internally and pay equity compliant. A re-evaluation process shall be available for all applicable employees to ensure equity is maintained.

### 4.2. Market Competitiveness

4.2.1. External market competitiveness is set at the 55<sup>th</sup> percentile for the Non-Union Salary Grid. A comprehensive market review may be undertaken every four (4) years to ensure this pay philosophy is maintained.

4.2.2. The comparator organizations for the purpose of evaluating market competitiveness are:

Thorold

Grimsby



Port Colborne

Wainfleet

Lincoln

Haldimand County

Niagara-on-the-Lake

Kingsville

Fort Erie

Tillsonburg

#### **4.3. The Living Wage**

4.3.1. All those employed by the Town, save and except students and/or persons participating in co-ops, internships or similar for which academic credit is received, will at minimum earn the Living Wage.

4.3.2. The Living Wage is released in November each year. The Manager of People Services shall ensure that the Town remains compliant with the Living Wage calculation and will provide said data to the Director of Corporate Services/Treasurer on an annual basis for budgetary purposes.

4.3.3. The Town will ensure that the non-union salary grids remain compliant with the new Living Wage requirement.

4.3.4. Compensation and wage rates of employment with the Town of Pelham wherein the position is represented by a union as part of a collective agreement are subject to the collective bargaining process and are specifically excluded from this policy.

#### **4.4. Compensation**

4.4.1. Movement through the pay band will occur once annually and will be based on a satisfactory performance evaluation for the prior year. This requires, at minimum, the employee receive a 'Successful' or 'In Training' performance rating.

4.4.2. Progression through the pay band is in recognition of satisfactory performance while actively at work. Employees on a leave of absence for a period of six (6) months or more during the performance evaluation period will not be eligible for a merit increase. Upon return to work, the employee will be returned to the salary level which was in effect at the time of the commencement of the leave. The employee's salary will be adjusted by any



cost of living increases approved by Council during the period while on leave.

- 4.4.3. Employees hired on or after July 1 will move to the next step on the salary grid upon the successful completion of the six (6) month probationary period. Time frames for continued progression through the pay band are as outlined in 4.3.1.
- 4.4.4. New employees shall be placed in the pay band their position is classified under at a step negotiated based upon experience and market competitiveness.
- 4.4.5. In the event of a red-circled salary, the employee shall not receive the annual cost of living adjustment until the salary grid catches up to their current wage.
- 4.4.6. Compression that may arise between supervisory positions and the unionized staff they supervise will be reviewed on an annual basis by the Chief Administrative Officer (CAO). The CAO shall determine if the Non-Union Salary Grid requires adjustment to ensure an appropriate spread is maintained between levels of responsibility.
- 4.4.7. Wage rates and classifications for temporary, part-time student, and seasonal positions are set and approved annually by the Chief Administrative Officer.
- 4.4.8. Individual salaries are and should remain confidential and fall under the legislated requirements of the *Municipal Freedom of Information and Protection of Personal Privacy Act*.

#### **4.5. Acting Pay**

- 4.5.1. In the event that a Town of Pelham employee is required and/or selected to take on a Temporary Assignment of a position of a higher pay grade than their regular position for a period longer than two (2) weeks, the employee will receive Acting Pay for the duration of the Acting Pay Period.



- 4.5.2. Employees who are required and/or selected to take on a Temporary Assignment must meet the minimum skill and job responsibility requirements for the position being filled, as described in the applicable job description. This includes but is not limited to having the required training, certificates and work experience to meet the legislated requirements of the position being filled.
- 4.5.3. Funding for situations that require Acting Pay must be generated from existing budget resources within the department of the position being filled and should generally be pooled from the funds allocated for the vacant position. The Human Resources Capacity Building Reserve may be used with the approval of the CAO in circumstances where funds for Acting Pay are unavailable in the existing departmental budget.
- 4.5.4. Initiating the Authority of the Acting CAO
- 4.5.4.1. In the event that a Temporary Assignment of the Chief Administrative Officer (CAO) position is required, an Acting CAO may be authorized to take on the Temporary Assignment. Only the CAO or, in grave circumstances in which the CAO is unable to act, Town Council has the authority to initiate the authority of the Acting CAO.
- 4.5.4.2. The CAO will send an email to Town Council and the senior leadership team advising that, effective a specific date, the Acting CAO will have authority to act on the CAO's behalf. If the end date is known, the CAO will include the range of dates at this time. If the end date is unknown, the CAO will indicate that the end date is pending and will be communicated once identified.
- 4.5.4.3. The Acting CAO does not have the authority to unilaterally terminate employment. Employment decisions involving senior leadership team members must have prior approval of Town Council. Employment decisions involving employees in all other positions must be made in partnership with People Services and follow the established process for conduct and/or performance issues.



- 4.5.4.4. If the Acting CAO is unable to fulfill the duties of the Temporary Assignment, the CAO in partnership with Town Council has the right to end the Temporary Assignment at any time.

#### **4.6. Transfers, Promotions, Demotions**

- 4.6.1. When an employee is permanently transferred or promoted to a position in a higher pay range, the employee will be placed in the new pay band at the start rate of that position.
- 4.6.2. If an employee is permanently demoted or transferred to a position in a lower pay grade, the present salary level may be red-circled.
- 4.6.3. In the event an employee applies for and is successful in obtaining a lower paid position, the employee will move to the start rate of that position.

**Subject:** Professional Training and Education Financial Assistance Policy

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0123, for information;**

**AND THAT Council approve the Professional Training and Education Financial Assistance Policy S600-18, as amended.**

**Background:**

The Town's current Training and Development Policy S600-18 has not been revised since 2013. At present the policy allows for permanent full-time and part-time employees working a minimum of 21 hours per week to enroll in courses that directly enrich either their present or future job responsibilities and be reimbursed up to \$300. The cost for courses that the Town requires an employee to take are covered 100% by the Town.

The policy is quite dated and needs revision. \$300 is no longer a significant contribution towards most courses as costs have increased since 2013. The policy does not contemplate completing a formal degree or diploma program and also does not require staff who are reimbursed for completing these courses to remain employed by the Town for any length of time following completion. Amending both the quantum of funds involved and the terms to include a contractual obligation to repay educational monies if someone departs shortly after completion (duration of time to vary with quantum of money expended) would both provide more realistic financial supports to staff, but also better value to taxpayers.

**Analysis:**

The policy has been renamed to Professional Training and Education Financial Assistance and has been amended to include a consistent approach for dealing with these requests. Employees wanting to enroll in a course will now have to submit a written request to their director and enrollment in any accredited university or college program must be approved by the CAO. The annual reimbursement amounts have been updated to more accurately reflect course costs. The amended

policy defines what is and is not covered by the Town, includes two funding options for staff, ensures those who are reimbursed for tuition costs remain employed for either one or two years following completion (depending upon the type of educational program they complete), as well as a diminishing reimbursement schedule in the event they opt to leave their employment prior to the agreed upon timeframe. The Town Solicitor has also prepared a contract that will be required for all those who seek reimbursement for a college or university diploma or degree.

#### **Financial Considerations:**

Approving this policy will not require additional budget dollars. Tuition or other course fees will be paid either with the existing departmental training budgets or the Human Resources Capacity Reserve.

#### **Alternatives Reviewed:**

The Town could continue without these policy amendments in place. However, a standard set of rules allows for consistency and fairness and also ensures that the Town benefits from these arrangements, either with continued employment after the course is completed or by being reimbursed if the employee chooses to resign.

#### **Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

Having such a policy in place can be a valuable attraction and retention tool. By investing in the continued professional development of existing employees, the Town demonstrates its commitment to enhancing the capacity of those it employs. This in turn benefits the Town, as it will end up with a more knowledgeable staff who are better prepared for advancement opportunities which will foster a sense of loyalty and commitment, increasing overall job satisfaction and reducing turnover.

#### **Consultation:**

The Senior Leadership Team was consulted regarding the policy revisions.

#### **Other Pertinent Reports/Attachments:**

Appendix "A" – Professional Training and Education Financial Assistance Policy  
S600-18

#### **Prepared and Submitted by:**

Brianna Langohr, CHRL  
Manager of People Services

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



<b>Policy Name: Professional Training and Education Financial Assistance Policy</b>	<b>Policy No: S600-18</b>
Committee approval date:	-
Council approval date:	November 4, 2013
Revision date(s):	-
Department/Division:	People Services

## 1. Purpose

- 1.1. The purpose of this policy is to support professional training and formal education for Town of Pelham employees by establishing a framework for financial assistance with tuition costs and clear eligibility criteria to promote consistency in the administration and approval of financial assistance requests.

## 2. Policy Statement

- 2.1. The Town of Pelham ("the Town") is committed to creating an engaging workplace that values employee development and growth. The Town recognizes the importance of investing in relevant professional training and education for staff to promote employee engagement, performance, career progression and to maximize employee contribution to the Town's operational needs and strategic goals.
- 2.2. This policy does not apply to professional training or education that the Town provides, directs or requires its employees to complete. The Town will fund all professional training and education that is made mandatory for employees.

## 3. Definitions

- 3.1. In this policy:

**"Eligible Course"** means a course offered by a Recognized Institution that is determined to be beneficial to an Eligible Employee and the Town for one or more of the following reasons:

- It is relevant to the employment responsibilities of the Eligible Employee;
- It enhances the current job performance of the Eligible Employee;
- It assists the Eligible Employee to achieve another position with the Town;
- It supports the Eligible Employee's development and preparation for future employment opportunities with the Town; and/or
- It prepares the Eligible Employee for new or emerging areas of opportunity for the Town.



**“Eligible Employee”** means a permanent full-time employee with not less than six (6) months of employment with the Town or a permanent part-time employee with not less than six (6) months of employment with the Town and who works a minimum of twenty-one (21) hours per week.

**“Professional Training”** means one or more Eligible Courses leading to a degree, graduate degree, diploma, certificate or professional designation.

**“Recognized Institution”** means a professional school, college, university, professional licensing body or other accredited education provider acknowledged by the Town under this policy.

**“Successful Completion”** means completion of an Eligible Course to the standards as determined by the Recognized Institution, such as a minimum passing grade, and as shown on the final transcript, report, degree, diploma, certificate or designation granted to an Eligible Employee.

**“Town”** means the Corporation of the Town of Pelham.

**“Tuition Allocation”** means the total annual amount of financial assistance funding approved by Council under this policy.

**“Tuition Fees”** means the amount payable to a Recognized Institution to complete an Eligible Course but does not include ancillary fees including but not limited to textbooks, internet usage, photocopying, parking, mileage, meals or lodging.

#### 4. General Provisions

- 4.1. Financial assistance for Tuition Fees is potentially available to all Eligible Employees in accordance with this policy, subject to the availability of Tuition Allocation funds and management approval.
- 4.2. Prior to enrolling in any training, course or program of study for which financial assistance for Tuition Fees will be sought, an Eligible Employee must submit a written request to their Department Director and/or the Chief Administrative Officer, as required under this policy, for approval of the training, course or program of study as an Eligible Course or Professional Training and of the Eligible Employee’s enrollment. The Eligible Employee must provide a copy of the submitted request to the People Services Department.
- 4.3. Where the proposed training, course or program of study is a university degree or diploma program or a college diploma program, the request for approval will be determined by the Chief Administrative Officer. All other requests for approval will be determined by the Eligible Employee’s Department Director.



- 4.4. Where an Eligible Employee requests a leave of absence in order to attend Professional Training for a period of one (1) week or less, their Department Director, in consultation with the Chief Administrative Officer, may grant such a request with full pay.
- 4.5. Where an Eligible Employee requests a leave of absence in order to attend Professional Training for a period exceeding one (1) week, their Department Director, in consultation with the Chief Administrative Officer, may grant such a request. If approved, the leave of absence will be without pay unless the Chief Administrative Officer determines otherwise.
- 4.6. Subject to sections 4.7 and 4.9 of this policy, where an Eligible Employee undertakes Professional Training other than a university degree or diploma program or a college diploma program, the Town will fund Tuition Fees of up to one thousand dollars (\$1,000.00) per Eligible Course to a maximum of three thousand dollars (\$3,000.00) per year.
- 4.7. The Eligible Employee must demonstrate Successful Completion in order to receive funding of Tuition Fees under section 4.6 of this policy.
- 4.8. Two funding options are available under section 4.6 of this policy:
  - i. the Eligible Employee may pay Tuition Fees for each Eligible Course and, upon demonstrating Successful Completion, be reimbursed subject to the maximum allowable amounts; or
  - ii. the Town will pay Tuition Fees for each Eligible Course, subject to the maximum allowable amounts, and will take no steps to recover those amounts if the Eligible Employee demonstrates Successful Completion. However, where the Eligible Employee fails to demonstrate Successful Completion for any reason whatsoever, the Town will recover Tuition Fees through one or more payroll deductions, which will not exceed twenty percent (20%) of net pay for any pay period.
- 4.9. Should an Eligible Employee terminate their employment with the Town for any reason within three hundred and sixty-five (365) days of completing an Eligible Course as described in section 4.6 of this policy, they will be required to reimburse the Town fully for Tuition Fees and any other associated costs incurred by the Town in relation to the Eligible Course.



- 4.10. Subject to sections 4.11, 4.12 and 4.15 of this policy, where an Eligible Employee undertakes Professional Training in a university degree or diploma program or a college diploma program, the Town will fund Tuition Fees of up to one thousand five hundred dollars (\$1,500.00) per Eligible Course to a maximum of five thousand dollars (\$5,000.00) per year and a lifetime maximum of twenty thousand dollars (\$20,000.00).
- 4.11. Prior to commencing Professional Training in a university degree or diploma program or a college diploma program, the Eligible Employee must enter into a written contract with the Town in which the Eligible Employee agrees to repay the Town in accordance with section 4.15 of this policy if the Eligible Employee voluntarily ceases their employment with the Town within two (2) years after completing the Professional Training.
- 4.12. The Eligible Employee must demonstrate Successful Completion in order to receive funding under section 4.10 of this policy.
- 4.13. Two funding options are available under section 4.10 of this policy:
- i. the Eligible Employee may pay Tuition Fees for all Eligible Courses to be taken within a semester and, upon demonstrating Successful Completion of one or more Eligible Courses, be reimbursed for such course(s), subject to the maximum allowable amounts; or
  - ii. the Town will pay Tuition Fees for all Eligible Courses to be taken within a semester, subject to the maximum allowable amounts, and will take no steps to recover those amounts if the Eligible Employee demonstrates Successful Completion of all Eligible Courses. However, where the Eligible Employee fails to demonstrate Successful Completion of any Eligible Course for any reason whatsoever, the Town will recover Tuition Fees paid in relation to that course through one or more payroll deductions, which will not exceed twenty percent (20%) of net pay for any pay period.
- 4.14. Should an Eligible Employee voluntarily cease their employment with the Town for any reason within two (2) years of completing Professional Training as described in section 4.10 of this policy, they will be required to repay the Town for Tuition Fees and any other costs incurred by the Town in relation to the Professional Training in accordance with section 4.15.
- 4.15. Repayment of Tuition Fees and any other costs incurred by the Town in relation to Professional Training as described in section 4.10 of this policy is pro-rated as follows:



- i. 100% if the Eligible Employee leaves within six (6) months less a day after completing the Professional Training;
- ii. 75% if the Eligible Employee leaves from six (6) months to twelve (12) months less a day after completing the Professional Training;
- iii. 50% if the Eligible Employee leaves from twelve (12) months to eighteen (18) months less a day after completing the Professional Training;
- iv. 25% if the Eligible Employee leaves from eighteen (18) months to twenty-four (24) months less a day after completing the Professional Training; and
- v. 0% if the Eligible Employee leaves twenty-four (24) months or more after completing the Professional Training.

4.16. The Town may recover the amounts prescribed by section 4.15 of this policy by means of a payroll deduction from the Eligible Employee's final pay, unless the recoverable amount exceeds twenty percent (20%) of net pay, in which case the Town may recover the funds over two or more payroll deductions.

4.17. Notwithstanding section 4.16, the Town may recover the amounts prescribed by section 4.15 of this policy by any means available to it in law, including but not limited to legal proceedings.

**Subject:** Proposed Policy for Donations to the Town of Pelham

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0185 Proposed Policy for Donations to the Town of Pelham, for information;**

**AND THAT Council approve proposed Policy No. S400-11 – Donations to the Town of Pelham.**

**Background:**

The Town of Pelham (“the Town”) is sometimes the prospective recipient of donations of money, tangible property or real estate from organizations, community groups or individuals. The Town is registered as a “*qualified donee*” under the *Income Tax Act*, which enables it to issue official donation receipts for income tax purposes. However, the Town does not presently have a policy to guide the assessment and administration of potential donations or that provides adequate direction about the issuance of official receipts. Staff have prepared the attached proposed Policy No. S400-11 – Donations to the Town of Pelham (“the policy”) to address these matters.

**Analysis:**

Financial and non-financial donations can be a valuable source of support for Town initiatives. The policy aims to provide clear and comprehensive guidance to address all potential donations in a transparent and consistent manner and to ensure that the Town complies with legal requirements for issuing official receipts.

The policy requires donations to align with the Town’s vision, values and strategic priorities, to be in the public interest, and to comply with all applicable law. It sets out general criteria for acceptable donations and prohibits donations that may adversely impact the Town’s reputation, finances or operations.

The policy also provides specific guidance for the acceptance of financial donations, in-kind donations and real property donations, the conferral of naming rights in relation to a Town program or asset, the acknowledgment of donors and donations, the management, recording and reporting of donations, and the issuance of official receipts. The policy generally requires written agreements outlining the terms and conditions of a donation and gives the Town full control over accepted donations. The procedures set out in the policy promote consistency in the administration of potential donations and compliance with the requirements of the *Income Tax Act*.

**Financial Considerations:**

Establishing a clear framework for the acceptance, administration and recognition of donations may have a positive financial impact by encouraging donors to consider the Town as a potential donee. Ensuring *Income Tax Act* compliance supports the Town's status as a qualified donee, which may further encourage donors as they will receive an official income tax receipt for eligible donations. The policy will also facilitate the donation process and thereby reduce staff time and other costs associated with evaluating and accepting donations.

**Alternatives Reviewed:**

Council may opt not to approve the policy or may direct revisions to same.

**Strategic Plan Relationship: Financial Health**

Donations promote the financial health of the Town by providing additional support for Town initiatives, projects, programs and services.

**Consultation:**

The policy was developed in consultation with the Senior Leadership Team.

**Other Pertinent Reports/Attachments:**

Proposed Policy No. S400-11 – Donations to the Town of Pelham.

**Prepared and Recommended by:**

Jennifer Stirton, BSc(Hons), LL.B.  
Town Solicitor

**Approved and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



<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.

**Subject:** Proposed Replacement of Town of Pelham Sign By-law

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report # 2023-0177 – Proposed Replacement of Town of Pelham Sign By-law, for information;**

**AND THAT Council approve, in principle, the proposed sign regulation by-law as presented;**

**AND THAT Council direct that the proposed by-law be presented to Council for consideration at the next regular meeting of Council.**

**Background:**

In 2020, the Town passed a by-law to regulate signs on public and private property, which has since been amended by two amending by-laws. Staff have encountered challenges working with the existing by-law due to its length and complexity. Staff have also identified some areas that are not adequately addressed in the existing by-law. As a result, staff have developed the proposed Sign Regulation By-law to facilitate ease of interpretation, application and enforcement.

**Analysis:**

The *Municipal Act, 2001* authorizes the Town to regulate signs, which is desirable to protect the Town's visual character and urban design objectives. Sign regulation is also necessary for public safety as signs that are improperly designed, secured or located can pose a hazard to motorists and pedestrians.

In considering amendments to the existing Sign By-law, staff have determined that it would be preferable to repeal and replace the existing by-law for several reasons:

1. To bring the by-law into conformity with the current Town standard by-law template;
2. To eliminate the need to reference multiple by-laws to identify amendments;
3. To streamline the by-law and simplify its language to facilitate understanding and thereby promote compliance;
4. To refine the by-law to facilitate ease of application and enforcement; and

5. To bring contraventions of the Sign By-law into the administrative monetary penalty system.

The proposed Sign Regulation By-law is appended to this report.

The by-law sets out prohibited sign types and those that require permits. The by-law also prescribes requirements for all types of signs that may be displayed, with or without a permit. The by-law sets out the procedure for obtaining a permit and allows the Town to impose appropriate conditions. The by-law enables the Town to enforce contraventions through the administrative monetary penalty system, compliance orders or *Provincial Offences Act* charges.

### **Financial Considerations:**

The proposed Sign Regulation By-law authorizes the Town to impose administrative monetary penalties for by-law contraventions, which may provide a financial benefit to the Town. As the objective of the proposed by-law is to facilitate compliance, however, it is hoped that there will be few contraventions to enforce.

There are no other direct financial implications associated with the proposed by-law.

### **Alternatives Reviewed:**

Council may provide direction to amend the existing by-law in lieu of proceeding with the proposed by-law. Council may also provide direction for revisions to the proposed by-law and refer the matter back to staff to prepare a further draft.

### **Strategic Plan Relationship: Community Development and Growth**

As the Town continues to grow, it will be beneficial to the community to have clear and consistent guidance to regulate signs in a manner that preserves the Town's desired aesthetic and promotes public safety.

### **Consultation:**

The proposed by-law was developed in consultation with by-law enforcement staff and the Senior Leadership Team.

### **Other Pertinent Reports/Attachments:**

Proposed Sign Regulation By-law.

### **Prepared and Recommended by:**

Jennifer Stirton, BSc(Hons), LL.B.  
Town Solicitor

### **Approved and Submitted by:**

David Cribbs, BA, MA, JD, MPA

Chief Administrative Officer



## The Corporation of the Town of Pelham

By-law No. XXXX(2023)

### **Being a By-law to regulate signs in the Town of Pelham and to repeal By-law No. 4199(2020)**

**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 on the municipality 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 the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and structures including fences and signs;

**AND WHEREAS** section 63 of the *Municipal Act, 2001* provides that a by-law may prohibit the placing or standing of an object on or near a highway and may provide for the removal of any such objects;

**AND WHEREAS** section 99 of the *Municipal Act, 2001* provides rules that apply to a by-law respecting advertising devices including signs;

**AND WHEREAS** section 391 of the *Municipal Act, 2001* authorizes a municipality to impose fees and charges on persons for services or activities provided or done by or on behalf of the municipality;

**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 is guilty of an offence;

**AND WHEREAS** section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under its by-laws;

**AND WHEREAS** section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws;

**AND WHEREAS** section 436 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction or order of the municipality;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law has occurred, may make an order requiring the person who contravened the by-law or caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

**AND WHEREAS** section 445 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law has occurred, may make an order requiring the person who contravened the by-law or caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention;

**AND WHEREAS** section 446 of the *Municipal Act, 2001* provides that where a municipality has authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of the matter or thing being done by the person directed or required to do it, it shall be done at the person's expense;

**AND WHEREAS** the Council of The Corporation of the Town of Pelham deems it necessary and desirable to regulate signs in the Town of Pelham to enact this By-law for that purpose;

**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 signs within the Town of Pelham so as to authorize and permit signs that:
- (a) are proportionate to the property, activity or use to which they pertain;
  - (b) are appropriate in size, number and location;
  - (c) provide reasonable and appropriate means for the public to locate and identify facilities, businesses and services;
  - (d) are compatible with their surroundings;
  - (e) preserve or enhance the aesthetic features and visual character of the property on which they are located;
  - (f) minimize adverse impacts on nearby properties;
  - (g) are consistent with the planning, urban design and heritage objectives of the Town; and
  - (h) do not create a distraction or safety hazard for the public.

**2. Definitions**

2.1. In this By-law:

**“Abandoned Sign”** means a Sign located on a Property that becomes vacant or unoccupied for a period of more than ninety (90) days or any Sign that pertains to a business, purpose or event that is no longer applicable.

**“Accessory Structure”** means an Accessory Structure as defined in the Zoning By-law.

**“Administrative Monetary Penalty”** means an Administrative Monetary Penalty issued pursuant to Town of Pelham Administrative Penalty Process By-law No. 4352(2022), as amended from time to time.

**“Alter”** means to change a Sign, Sign Structure or Sign Face, other than to Maintain it or to modify Copy that is specifically designed and intended to be changed or rearranged from time to time, and **“Alteration”** and **“Altered”** have corresponding meanings.

**“Applicable Law”** means all applicable by-laws of the Town and Niagara Region and all applicable provincial and federal statutes and regulations.

**“Awning”** means a frame system, moveable or fixed, covered with non-rigid material attached to and projecting from a Building or structure but not forming an integral part thereof and does not include a Canopy.

**“Awning Sign”** means a Sign that is printed on or otherwise affixed to the surface of an Awning and that does not project from the Awning in any direction.

**“Banner Sign”** means a Temporary Sign made of lightweight non-rigid material affixed to a Building or Ground Sign and is not an Awning Sign, Canopy Sign, Flag, Inflatable Sign or Window Sign.

**“Billboard”** means an Offsite Sign with Modifiable Copy that is owned by a Person engaged in the business of renting or leasing Sign Face Area for advertising purposes.

**“Building”** means a building as defined in the *Building Code Act, 1992* and the *Building Code*.

**“Building Code Act”** means the *Building Code Act, 1992*, S.O. 1992, c. 23.

**“Building Code”** means the *Building Code*, O. Reg. 332/12.

**“Business Sign”** means a Sign that identifies, advertises or promotes a business or commercial enterprise.

**“Canopy”** means an overhead structure, unenclosed by walls, that may attach to and project from a Building or may be freestanding.

**“Canopy Sign”** means a Sign that is printed on or otherwise affixed to any surface of a Canopy and that may hang from the underside of the Canopy.

**“Clerk”** means the Clerk of the Town or designate.

**“Congratulatory Sign”** means a Temporary Sign that is Displayed in relation to a private special occasion and does not advertise or promote a business or commercial enterprise.

**“Construction Enclosure Sign”** means a Construction Sign affixed to a fence or enclosure around a construction site that provides information about the Building or Structure under construction and may include the builder or trades.

**“Construction Sign”** means a Temporary Sign that includes information that relates to, advertises or promotes a residential, commercial or other development in the Town.

**“Copy”** means the visual content of a Sign including letters, numbers, symbols, images, characters and Logos but does not include letters or numbers used to identify the municipal address of a Property.

**“Council”** means the Council of the Town.

**“Daylighting Triangle”** means a triangular-shaped area of land free of buildings or structures or other visual obstructions, the size of which is prescribed by the Town of Pelham Municipal Engineering Design Manual, as updated or amended from time to time, and which is determined by measuring from the point of intersection of street lines on a corner lot and along each such street line to a required distance and joining such points with a straight line. Where the two street lines do not intersect at a point, the point of intersection shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.

**“Directional Sign”** means a Sign that provides directions to be followed to reach a specific destination, which may include Copy that identifies the destination and/or directs vehicular or pedestrian traffic but shall contain no other advertising Copy.

**“Director”** means the Director of Fire and By-law Services of the Town or designate.

**“Display”** means to attach, affix, build, construct, erect or place a Sign on any Property and **“Displaying”** and **“Displayed”** shall have corresponding meanings.

**“Downtown Area”** means an area designated as "Downtown" under the Town of Pelham Official Plan, as updated or amended from time to time.

**“Enforcement Authority”** means a by-law enforcement officer of the Town, the Director and any Person appointed or otherwise delegated the authority of administration and enforcement of this By-law.

**“External Illumination”** means Illumination directed toward a Sign from a light source that is not affixed to or otherwise part of the Sign.

**“Feather Flag Sign”** means a Temporary Sign made of lightweight non-rigid material that is supported by a freestanding base not affixed to the ground and that can be easily carried or transported.

**“Fees and Charges By-law”** means Town of Pelham By-law No. 4411(2022), as enacted and amended from time to time.

**“Flag”** means a Sign made of lightweight non-rigid material that can be attached by one edge to a flagpole and that is not used for commercial purposes.

**“Front Lot Line”** means the Lot Line(s) along a Highway.

**“Frontage”** means the horizontal distance between the Side Lot Lines of a Lot as measured along the Front Lot Line.

**“Grade”** means the average surface elevation of the ground where it is in contact with any Building, Sign or Structure.

**“Ground Sign”** means a Sign with a maximum Height of 3.0m that is supported by a freestanding base affixed directly to the ground in a fixed location and does not include a Mobile Sign.

**“Height”** means the vertical measurement from the Grade at the base of a Sign to the highest point of the Sign Structure or Sign Face, as the case may be.

**“Highway”** means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8.

**“Illuminate”** means the act of lighting a Sign by way of artificial light, which may be internal or external to the Sign, and **“Illuminated”** and **“Illumination”** shall have corresponding meanings.

**“Incidental Sign”** means an Onsite, non-Business Sign of minor size and consequence and includes a Sign bearing the municipal address of a Property and similar identifying Signs.

**“Industrial Park Sign”** means a Ground Sign that provides information about the industrial park and the businesses and commercial enterprises located within it and is limited to Logos, directions and/or distances.

**“Inflatable Sign”** means a Temporary Sign filled with air or gas.

**“Information Sign”** means a Sign that provides information relating to public order or public safety or that provides for public education relating to the surroundings of the Sign.

**“Interactive Copy”** means Copy that changes to communicate directly and specifically with an observer of the Sign.

**“Internal Illumination”** means Illumination from a light source within a Sign.

**“Logo”** means an image, graphic representation or symbol of the name, abbreviation and/or trademark of a business or commercial enterprise.

**“Lot”** means a parcel or contiguous parcels of land designed and registered at the Registry Office as one parcel of land in one ownership.

**“Lot Line”** means any boundary of a Lot.

**“Maintain”** means to preserve or prevent the deterioration of an existing Sign, Sign Structure or Sign Face but does not include Alterations and **“Maintained”** and **“Maintenance”** shall have corresponding meanings.

**“Menu Board Sign”** means a Sign that is Displayed at a drive-through facility and is used to depict and order products and services available at the drive-through business.

**“Mobile Sign”** means a Sign that is specifically designed and intended to be readily moved from one location to another and that does not rely on a Building, fixed foundation or Structure other than the Sign Structure for support.

**“Modifiable Copy”** means Copy that is specifically designed and intended to be modified, changed or rearranged from time to time by manual or electronic means and includes Illuminated Copy that is programmed to change in a set rotation or sequence.

**“Niagara Region”** means the Regional Municipality of Niagara.

**“Occupant”** means a Person that lawfully occupies a Property and includes Owners and lessees.

**“Official Sign”** means a Sign required by and Displayed in accordance with any Applicable Law.

**“Offsite Sign”** means a Sign that identifies or directs attention to a facility, business, service, event or activity that is not conducted, sold or offered at the Property on which the Sign is Displayed.

**“Onsite Sign”** means a Sign that identifies or directs attention to a facility, business, service, event or activity that is conducted, sold or offered at the Property on which the Sign is Displayed.

**“Owner”** means the registered owner of Property.

**“Parapet”** means any part of the wall of a Building that rises above the roof level of the Building.

**“Parking Space”** means an area of land set aside for the temporary parking of a single motor vehicle and normally designated by lines or other suitable markings painted or marked on the land surface.

**“Permit”** means a permit issued in accordance with this By-law.

**“Person”** means an individual, corporation, partnership or association.

**“Pole Sign”** means a Sign with a Height of greater than 3.0m that is supported by a freestanding base affixed directly to the ground in a fixed location and does not include a Mobile Sign.

**“Poster”** means a Sign printed directly on paper or similar material that is suitable and/or intended for Temporary Display.

**“Private Property”** means Property owned by a Person other than the Town, Niagara Region, the Province of Ontario or Canada.

**“Projecting Sign”** means a Sign that is affixed to the exterior wall of a Building and that projects horizontally in a predominantly perpendicular direction and does not include an Awning Sign or Canopy Sign.

**“Property”** means any land or premises within the Town.

**“Public Property”** means Property under the ownership or jurisdiction of the Town, Niagara Region, the Province of Ontario or Canada.

**“Public Road Allowance”** means a Highway in the Town under the jurisdiction of the Town, Niagara Region or the Province of Ontario.

**“Public Sidewalk”** means any portion of the Public Road Allowance that designated for pedestrian use and that is paved or otherwise improved for use by pedestrian traffic.

**“Public Utility Sign”** means an Official Sign that is Displayed by the supplier of a public utility as defined in the *Public Utilities Act*, R.S.O. 1990, c. P.52.

**“Real Estate Open House Sign”** means a Temporary Sign not anchored to the ground that identifies and/or provides direction to a Property that is offered for sale, rent or lease and is open for viewing by any Person.

**“Real Estate Sales Office Sign”** means a Temporary Sign that advertises a residential development in which one or more Properties are offered for sale and that is Displayed at a Property within the residential development that serves as a model home or sales office.

**“Real Estate Sign”** means a Temporary Sign that advertises and is Displayed at a Property that is offered for sale, rent or lease but does not include a Real Estate Open House Sign or a Real Estate Sales Office Sign.

**“Residential Zone”** means a Residential Zone under the Zoning By-law.

**“Roof Sign”** means a Sign that is attached or affixed to or supported by the roof of a Building and is Displayed on or above the roof or Parapet of the Building.

**“Sequential Sign”** means a Sign that is part of a series of two (2) or more Signs used to convey a single message with each Sign message being dependent upon at least one (1) other Sign message.

**“Side Lot Line”** means a Lot Line other than a Front Lot Line or the Lot Line opposite to the Front Lot Line.

**“Sidewalk Sign”** means a Temporary Sign not anchored to the ground that can be easily repositioned or relocated without mechanical aid.

**“Sign”** means any device, object or thing used to convey information and that is Displayed on any Property to direct attention to a specific subject matter for identification, information or advertising purposes, including but not limited to all types of Signs specifically described in this By-law.

**“Sign Face”** means the portion of a Sign, other than the Sign Structure and any border or frame around the perimeter of the Sign, that contains or is capable of containing Copy.

**“Sign Face Area”** means the height of the Sign Face multiplied by the length of the Sign Face, with both measurements being taken from the interior of any border or frame around the perimeter of the Sign or, where there is no border or frame, from the edges of the Sign.

**“Sign Owner”** means the Person who owns the Sign or holds a Permit for the Sign and includes any Person whose name, address, telephone number or email address appears on the Sign or who benefits from the information conveyed by the Sign and, for greater certainty, there may be more than one (1) Sign Owner.

**“Sign Structure”** means any support, framework, bracing or structure that supports or did support a Sign and that is affixed to or supported by the ground or by a Building or Structure.

**“Special Event Lawn Sign”** means a Temporary Sign that promotes or advertises a public festival, charitable function or other non-profit event that is anchored in shallow ground and is capable of being easily removed or relocated.

**“Structure”** means anything built, constructed or erected with a fixed point on or in the ground or attached to a Building or other Structure that has a fixed point on or in the ground.

**“Temporary”** means a Sign that is not intended or designed for Display on a long-term or permanent basis or that may be Displayed for a limited time in accordance with a Permit or this By-law.

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

**“Wall Sign”** means a Sign that is attached or affixed to or supported by the wall of a Building or Structure.

**“Window Sign”** means a Sign that is attached or affixed to the window of a Building or Structure but that does not obstruct any door, window or opening required for light, ventilation, egress or access to the Building or Structure.

**“Yard Sale Sign”** means a Temporary Sign that promotes or advertises a private event commonly described as a garage sale, lawn sale or yard sale, that is affixed to any Structure or anchored in shallow ground and is capable of being easily removed or relocated.

**“Zoning By-law”** means Town of Pelham Zoning By-law No. 4481(2022), as enacted and amended from time to time.

**3. Application**

- 3.1. This By-law does not apply to the following Signs:
- (a) any Sign or Poster on Public Property that is Displayed by the Town;
  - (b) Offsite Signs at recreational facilities owned by the Town and Displayed pursuant to a written contract between the Sign Owner and the Town;
  - (c) Offsite Signs at recreational facilities on Private Property that are not visible past any boundary of the Private Property;
  - (d) any Sign or Poster within a Building that is not visible past any boundary of the Property on which the Building is located;
  - (e) Incidental Signs;

- (f) Official Signs;
- (g) Public Utility Signs;
- (h) Election Signs within the Town as defined in and regulated by Town of Pelham Election Sign By-law No. 3310(2012).

3.2. The exemptions prescribed by subsection 3.1 do not prohibit any other municipality or government authority from regulating Signs or from requiring a permit or approval for any Sign under other Applicable Law.

#### **4. General Prohibitions**

- 4.1. No Person shall Display any Sign or cause or permit any Sign to be Displayed on any Property except in accordance with this By-law and all Applicable Law.
- 4.2. Without limiting the scope or application of subsection 4.1, where a Permit is required under this By-law, no Person shall Display any Sign or cause or permit any Sign to be Displayed except in accordance with the conditions of the Permit.
- 4.3. Notwithstanding any other provision of this By-law, any Sign that is lawfully Displayed on or before the day on which this By-law comes into force but does not comply with this By-law is permitted to remain and may be Maintained but shall not be Altered or moved to a new Display location except in accordance with this By-law.

#### **5. Prohibitions by Sign Type and Location**

- 5.1. Where a Sign is not exempted from or expressly permitted by this By-law, it shall be deemed to be prohibited.
- 5.2. Without limiting the scope or application of subsection 5.1, the following Signs are strictly and expressly prohibited:
  - (a) any Sign that does not comply with Applicable Law, including but not limited to the *Human Rights Code*, R.S.O. 1990, c. H.19, the *Building Code Act*, the *Building Code*, the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A, and the *Electrical Safety Code*, O. Reg. 777/21;
  - (b) Abandoned Signs;
  - (c) Billboards;
  - (d) Business Signs on Property in a Residential Zone unless specifically permitted under this By-law;
  - (e) Offsite Signs unless specifically permitted under this By-law;
  - (f) Sequential Signs;
  - (g) Roof Signs unless specifically permitted under this By-law;
  - (h) any Business Sign or Offsite Sign affixed or attached to or painted on a vehicle or trailer that is parked and not used for transportation for more than five (5) consecutive days, other than vehicles or trailers associated with new construction that are parked on the Property where construction is occurring;

- (i) any Sign that bears all or any part of the Logo, crest or seal of the Town without the express written permission of the Town;
- (j) any Sign that contains Interactive Copy;
- (k) any Sign that emits sound, odour, gas, liquid or solid;
- (l) any Sign that uses flashing or rotating Illumination such that it resembles an emergency light;
- (m) any Sign that moves or appears to move unless specifically permitted under this By-law;
- (n) any Sign that projects Copy onto a surface other than the Sign surface unless specifically permitted under this By-law;
- (o) any Sign affixed or attached to or painted on an Accessory Structure unless specifically permitted under this By-law;
- (p) any Sign that obstructs any door, window or opening required for light, ventilation, egress or access to a Building or Structure;
- (q) any Sign that interferes with utility lines, electrical wires, telecommunications cables or similar installations or with any structure appurtenant to such installations;
- (r) any Sign that requires or uses above-ground electrical wiring;
- (s) any Sign that obstructs or impedes maintenance operations of the Town;
- (t) any Sign that is located on or encroaches upon Public Property without the express written permission of the Town;
- (u) any Sign that overhangs or is within a horizontal distance of 0.6m or less of a Public Sidewalk;
- (v) any Sign attached or affixed to an Official Sign, a utility pole or an appurtenant structure unless specifically permitted under this By-law;
- (w) any Sign attached or affixed to a tree, fence, gate or railing unless specifically permitted by Town of Pelham Fence By-law No. 4157(2019);
- (x) any Sign located within a Daylighting Triangle;
- (y) any Sign that obstructs or is situated within a Parking Space;
- (z) any Sign attached or affixed to a traffic control device or appurtenant structure without the express written permission of the Town;
- (aa) any Sign that interferes with or obstructs the visibility of any Official Sign or traffic control device;
- (bb) any Sign that obstructs or interferes with pedestrian or motor vehicle traffic so as to create a safety hazard; and
- (cc) any Sign that creates or constitutes a danger or hazard to the public.

5.3. Nothing that is prohibited under this By-law shall be authorized by way of minor variance.

## 6. Permit Requirements

6.1. The following Signs may be Displayed or Altered without a Permit provided that they comply with all other applicable requirements of this By-law:

- (a) memorial, commemorative or heritage designation Signs;
- (b) the Flag of any civic, educational or religious organization;
- (c) the Flag of any commercial or corporate organization that is Displayed at a Height no greater than 7.5m and with a Sign Face Area no greater than 2.7m<sup>2</sup>, and provided that no more than three (3) Flags are Displayed on any one (1) Property;
- (d) Temporary Banner Signs;
- (e) Temporary Feather Flag Signs;
- (f) Information Signs that pertain exclusively to public safety or that exclusively indicate maximum headroom with a Sign Face Area no greater than 0.35m<sup>2</sup>;
- (g) Directional Signs;
- (h) Mobile Signs with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (i) Window Signs;
- (j) non-Illuminated Wall Signs permanently attached or affixed to a Building or Structure with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (k) the Business Sign of a construction, renovation, landscaping or other contractor that is temporarily Displayed at the Property where the contractor is actively working with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (l) Real Estate Signs with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (m) Real Estate Open House Signs;
- (n) Real Estate Sales Office Signs;
- (o) Special Event Lawn Signs;
- (p) Sidewalk Signs;
- (q) Construction Signs with a Sign Face Area no greater than 10.0m<sup>2</sup>;
- (r) Construction Enclosure Signs that do not extend beyond the structure of the construction enclosure;
- (s) non-Illuminated "*No Trespassing*" or similar warning signs with a Sign Face Area no greater than 0.2m<sup>2</sup>;
- (t) Yard Sale Signs; and
- (u) Congratulatory Signs Displayed on Private Property for no more than seventy-two (72) consecutive hours.

6.2. The permit exemptions prescribed by subsection 6.1 do not prohibit any other municipality or government authority from requiring a permit or approval for any Sign under other Applicable Law.

6.3. The following Signs may not be Displayed or Altered without a Permit:

- (a) Banner Signs;
- (b) Ground Signs;
- (c) Industrial Park Signs;
- (d) Inflatable Signs;
- (e) Menu Board Signs;
- (f) Mobile Signs with Modifiable Copy;
- (g) Pole Signs;
- (h) Projecting Signs;
- (i) Wall Signs other than those described in paragraph 6.1(j);
- (j) Roof Signs; and
- (k) where subsection 6.1 prescribes a maximum Sign Face Area and/or maximum Height for a Sign to be Displayed or Altered without a Permit, any Sign of that type that exceeds the applicable requirement(s).

6.4. Any Person may apply to the Town for a Permit to Display or Alter a Sign for which a Permit is required under subsection 6.3.

6.5. An application under subsection 6.4 shall be made in writing to the Director in the form determined by the Town and/or the Director from time to time and shall include:

- (a) the name, address, telephone number and email address of the Person making the application;
- (b) where the Person making the application does not own the Property where the Sign will be Displayed or Altered:
  - i. the name, address, telephone number and email address of the registered owner(s) of the Property; and
  - ii. written approval of the application by the registered owner(s) of the Property.
- (c) confirmation of any other municipal or government authority approval(s) required under Applicable Law;
- (d) a site sketch or location plan drawn to scale that clearly identifies the location, dimensions and configuration of the Property where the Sign will be Displayed or Altered including all existing Buildings, structures and/or Signs on the Property and that clearly illustrates the shortest distance(s) from the Property line(s) for any existing Signs and the proposed Sign;
- (e) drawings or plans drawn to scale that clearly demonstrate the dimensions, configuration and particulars of the proposed Sign including construction and Illumination details for the Sign and Sign Structure or an existing Structure on which the Sign will be mounted, and identifying the construction material, length, width, height, area and weight of the Sign, which shall be signed and sealed by a licensed Professional Engineer or Architect where the proposed Sign is:
  - i. a Pole Sign Displayed more than 3m above the ground;
  - ii. a Roof Sign; or
  - iii. a Projecting Sign fastened in any way to a Parapet; and

- (f) sufficient information for the Chief Building Official of the Town to determine that the Sign has been designed and will be Displayed or Altered in compliance with the Building Code.
- 6.6. An application under subsection 6.4 shall be accompanied by the applicable fee as established by the Fees and Charges By-law, which is non-refundable irrespective of the outcome of the Permit application.
- 6.7. Upon receipt of an application that contains all information required under subsection 6.5, the Director shall review and determine the application and may impose such terms and conditions on a Permit as the Director considers appropriate.
- 6.8. The Director may cancel an application for a Permit for a proposed Sign where the application remains incomplete or is inactive for ninety (90) days after it is made.
- 6.9. The Director may refuse to issue a Permit where the proposed Sign or any existing Sign on the Property where the proposed Sign will be Displayed or Altered does not comply with this By-law or other Applicable Law.
- 6.10. The Director may revoke a Permit where:
  - (a) the Permit was issued in error;
  - (b) the Permit was issued based on information in the application that was false, incorrect, mistaken or misleading;
  - (c) the Display or Alteration of the Sign has not commenced within six (6) months of Permit issuance;
  - (d) the Person to whom the Permit was issued contravenes any provision of this By-law or other Applicable Law;
  - (e) the Person to whom the Permit was issued fails to comply with any term or condition of the Permit;
  - (f) the business, product, activity or service to which the Sign relates ceases to operate or is no longer available; and/or
  - (g) the Person to whom the Permit was issued requests in writing that it be revoked.
- 6.11. Where a Permit is revoked the Person to whom it was issued shall immediately remove the Sign to which the Permit relates.
- 6.12. Permits are not transferable.

## **7. Sign Requirements**

- 7.1. The Sign Owner and/or the Owner of Property where a Sign is Displayed shall ensure that the Sign and any Sign Structure(s) are maintained in a proper state of repair and do not become unsafe, structurally unsound, unsightly or dangerous.
- 7.2. Where a Sign becomes unsafe, structurally unsound, unsightly or dangerous or otherwise fails to comply with this By-law, the Sign Owner and/or the Owner of Property where the Sign is Displayed shall immediately remove the Sign.

- 7.3. In addition to the foregoing, the Sign Owner shall ensure that all requirements applicable to a particular Sign as set out in sections 7.4 to 7.21 of this By-law are satisfied.
- 7.4. Where this By-law permits Illuminated Modifiable Copy on a Sign, the following requirements apply:
- (a) the duration of each message shall be not less than ten (10) seconds and the Sign shall transition immediately to the next message;
  - (b) during message transition, the Sign shall not include any blinking, flashing or intermittent light;
  - (c) all Illuminated Modifiable Copy shall be equipped with dimming technology that automatically adjusts the brightness of the Sign in direct correlation with ambient light conditions; and
  - (d) the Sign shall be designed so as to cease operating in the case of a malfunction.
- 7.5. Where this By-law permits a Sign to be Illuminated, the following requirements apply:
- (a) External Illumination shall not be directed toward adjacent Lots or Public Road Allowances;
  - (b) External Illumination shall not be directed toward oncoming vehicular traffic;
  - (c) if the Sign is located in a Downtown Area, it shall not have Internal Illumination unless it is a Business Sign with Internal Illumination that was lawfully Displayed on or before the date on which this By-law came into force or that replaces such a Sign provided that the replacement Sign is Displayed by the same Sign Owner in the same location;
  - (d) if the Sign is located within a Residential Zone or within 30.0m of a Residential Zone, it shall not be Illuminated between the hours of 10:00 p.m. and 7:00 a.m. unless it is an Onsite Sign associated with a lawful business that operates during those hours and only while the business is in operation; and
  - (e) if the Sign is located in an area other than as described in paragraph 7.5(d), it shall not be Illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless it is an Onsite Sign associated with a lawful business that operates during those hours and only while the business is in operation.
- 7.6. The following requirements apply to Banner Signs over 0.6m<sup>2</sup>:
- (a) the Sign must be situated entirely on the Property to which it pertains and not on or over a Public Road Allowance without the express written permission of the Town; and
  - (b) the number of Signs on a single Building is limited to one (1) for every 20.0m of Building Frontage.
- 7.7. The following requirements apply to Feather Flag Signs over 0.6m<sup>2</sup>:

- (a) the Sign must be situated entirely on the Property to which it pertains and not on or over a Public Road Allowance; and
- (b) the number of Signs on a single Building is limited to one (1) for every 20.0m of Building Frontage.

7.8. The following requirements apply to Construction Signs:

- (a) a Permit is required for any Sign with a Sign Face Area greater than 10.0m<sup>2</sup>;
- (b) the Sign must be situated entirely on the Property to which it pertains;
- (c) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (d) the area of any side or visible face of the Sign shall not exceed 20.0m<sup>2</sup>; and
- (e) the number of Signs on a Property is limited to one (1) for every 20.0m of Frontage.

7.9. The following requirements apply to Ground Signs:

- (a) the Sign must be situated entirely on the Property to which it pertains;
- (b) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (c) the Height of the Sign shall not exceed 3.0m;
- (d) the area of any side or visible face of the Sign shall not exceed 9.0m<sup>2</sup>;
- (e) in Residential Zones, the area of the Sign shall not exceed 0.3m<sup>2</sup>;
- (f) the Sign shall be located more than 6.0m from any driveway entrance or the intersection of two (2) streets where the setback is less than the height of the Sign; and
- (g) the number of Signs on a single Property is limited to one (1) for every 20.0m of Frontage.

7.10. The following requirements apply to Pole Signs:

- (a) the Sign must not be situated in any Residential Zone;
- (b) the Sign must be situated entirely on the Property to which it pertains;
- (c) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (d) the Height of the Sign shall not exceed 9.0m;
- (e) the area of any side or visible face of the Sign shall not exceed 20.0m<sup>2</sup>; and
- (f) the number of Signs on a single Property is limited to one (1) for every 60.0m of Frontage and where a Lot has less than 60.0m of Frontage, no such Sign is permitted.

7.11. The following requirements apply to Mobile Signs:

- (a) the Sign must not be situated in any Residential Zone;
- (b) the Sign must be situated entirely on the Property to which it applies;
- (c) the Sign shall be located no closer than 1.0m to any Lot Line and, where the Sign height exceeds 1.0m, no closer than 2.0m from any Lot Line adjacent to a Public Road Allowance;
- (d) the Height of the Sign shall not exceed 2.4m;
- (e) the area of any side or visible face of the Sign shall not exceed 4.6m<sup>2</sup>;
- (f) the Sign shall have no more than two (2) sides or visible faces;
- (g) the number of Signs on a single Property is limited to one (1) for every 30.0m of Frontage;
- (h) the Sign may be Illuminated provided that the requirements of subsection 7.5 are met;
- (i) all electrical components of every nature or kind attached or affixed to the Sign or in any way related to the Sign must comply with this By-law and all Applicable Law;
- (j) the Sign shall be located more than 6.0m from any driveway entrance or the intersection of two (2) streets where the setback is less than the Height of the Sign;
- (k) the Sign shall be Displayed only for the period of time set out in the Permit, which shall not exceed a total of one hundred and twenty (120) days in any calendar year, which may be allocated as follows:
  - i. four (4) periods of thirty (30) days, with an interval of not less than thirty (30) days between each period; or
  - ii. two (2) periods of sixty (60) days, with an interval of not less than thirty (30) days between each period.
- (l) notwithstanding paragraph 7.11(k), the Director may grant a Permit for a new business to Display a Business Sign for a continuous period of ninety (90) days from the opening day of the business to advertise and promote the new business; and
- (m) the Sign and any Sign Structure(s) must be removed from the Property, stored in a Building or structure or adequately screened from view by fencing or landscaping during the intervals when the Sign is not on Display and after the Display period indicated on the Permit has elapsed.

7.12. The following requirements apply to Projecting Signs:

- (a) the Sign shall be fastened to a structural component of the Building to which it is attached or affixed in accordance with good engineering practice and subject to the approval of the Chief Building Official;

- (b) no part of the Sign may project beyond any Property line of the Property on which it is situated or encroach on or over any other Property; and
- (c) the Sign shall have a minimum clearance of 2.4m between the bottom of the Sign and Grade.

7.13. The following requirements apply to Roof Signs:

- (a) the Sign shall be situated entirely on the Property to which it applies;
- (b) the Sign shall have a minimum setback of 1.0m from the Building face;
- (c) the Sign shall be constructed of non-combustible materials;
- (d) the Sign shall have a minimum clearance of 1.22m from the bottom or underside of the Sign to the roof of the Building; and
- (e) the Height of the Sign shall not exceed the maximum Building height from Grade as prescribed by the Zoning By-law.

7.14. The following requirements apply to Sidewalk Signs on Private Property:

- (a) the Sign must pertain to a lawful commercial business actively operating in the Town;
- (b) the Sign must be situated entirely on the Property of the business to which it applies and must not encroach on or over Public Property;
- (c) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (d) the width of the Sign shall not exceed 1.2m;
- (e) the height of the Sign shall not exceed 0.6m;
- (f) the depth of the Sign shall not exceed 0.9m;
- (g) the Sign shall be Displayed only while the business is open to the public and shall be removed when the business is closed; and
- (h) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.15. The following requirements apply to Sidewalk Signs on Public Property:

- (a) the Sign must pertain to a lawful commercial business actively operating in the Town;
- (b) the Sign may be situated on Public Property only where it is not possible to situate the Sign on Private Property;
- (c) the Sign shall be situated on Public Property adjacent to the Frontage of the Property where the business operates;
- (d) the number of Signs on a single Property is limited to one (1) sign for each business operating at premises on the ground floor of a Building on the Property;

- (e) the Sign shall be located no closer than 0.3m to the travelled portion of any Highway;
- (f) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (g) if the Sign is located on a Public Sidewalk, it shall have a minimum clearance of 1.2m on each side to allow pedestrians to pass;
- (h) the width of the Sign shall not exceed 0.6m;
- (i) the height of the Sign shall not exceed 1.2m;
- (j) the depth of the Sign shall not exceed 0.9m;
- (k) the Sign shall be Displayed only while the business is open to the public and shall be removed when the business is closed;
- (l) the Sign Owner shall obtain and maintain one or more policies of commercial general liability insurance with limits of not less than two million dollars (\$2,000,000) and naming the Town as an additional insured; and
- (m) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.16. The following requirements apply to Special Event Lawn Signs:

- (a) the Sign shall be Displayed for not more than thirty (30) days prior to the event to which it pertains and not more than five (5) days after the event to which it pertains;
- (b) the height of the Sign shall not exceed 0.75m from Grade;
- (c) the area of any side or visible face of the Sign shall not exceed 0.37m<sup>2</sup>;
- (d) the Sign shall have no more than two (2) sides or visible faces;
- (e) the Sign may be situated on the boulevard between a Public Sidewalk and a Highway;
- (f) the Sign must be set back at least 0.5m from the edge of the travelled portion of any roadway;
- (g) the Sign Owner shall immediately remove the Sign upon request by the Owner or Occupant of a Property abutting the boulevard where the Sign is Displayed.

7.17. The following requirements apply to Wall Signs:

- (a) the Sign must be situated on the Property to which it applies;
- (b) subject to paragraph 7.17(c), the Sign shall be attached to an exterior front-facing wall of a Building on the Property;
- (c) despite paragraph 7.17(b), the Sign may be attached to a rear-facing wall of a Building where the rear side of the Building abuts a Public Road Allowance and the Sign complies with all other requirements of this subsection;
- (d) the Sign shall not project more than 0.3m from the exterior wall of the Building to which it is attached;

- (e) the Sign shall not project above the eaves or Parapet of the Building to which it is attached;
- (f) if the Sign is attached to Building that contains a single unit:
  - i. the width of the Sign shall not exceed eighty percent (80%) of the linear measurement of the width of the wall to which it is attached; and
  - ii. the Height of the Sign shall not exceed twenty-five percent (25%) of the height of the wall to which it is attached;
- (g) if the Sign is attached to a Building that contains multiple units, the requirements of paragraph 7.17(e) apply to each individual unit;
- (h) where two (2) or more Signs are permitted and attached to the same Building wall, the Signs shall be consistent in their appearance and shall be Displayed at the same horizontal alignment and vertical height;
- (i) in Residential Zones, the Sign Area shall not exceed 0.3m<sup>2</sup>;
- (j) if the Sign projects more than 100mm, it shall have a minimum clearance of 2.4m between the underside of the Sign and Grade;
- (k) if the Sign is an Awning Sign:
  - i. it shall project no more than 1.2m from the Building wall to which it is attached; and
  - ii. it shall not contain Changing Copy;
- (l) if the Sign is a Canopy Sign:
  - i. it shall project no more than 1.2m from the Building wall to which it is attached; and
  - ii. it shall not contain Changing Copy.

7.18. The following requirements apply to Real Estate Open House Signs situated over or on Public Road Allowances:

- (a) subject to paragraph 7.18(b), the Sign shall be Displayed no earlier than 4:00 p.m. on a Friday and shall be removed no later than 9:00 a.m. of the following Monday;
- (b) where a Friday or Monday is a statutory holiday, the time period during which the Sign may be Displayed may be extended to the extent necessary to include the holiday;
- (c) the Sign shall not be placed on the Public Road Allowance in any location that interferes with pedestrian or vehicular traffic or otherwise creates a hazard;
- (d) the Sign shall be located no closer than:
  - i. 0.3m to the travelled portion of any roadway;
  - ii. 10.0m to any transit stop;
  - iii. 3.0m to any driveway entrance; or
  - iv. 1.0m to a Public Sidewalk.

7.19. The following requirements apply to Real Estate Sales Office Signs:

- (a) the Sign must pertain to a residential development that is actively under construction or in which one (1) or more Properties are offered for sale;
- (b) the Sign must be situated entirely on the Property of the business to which it applies and must not encroach on or over Public Property;
- (c) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (d) the width of the Sign shall not exceed 1.2m;
- (e) the Height of the Sign shall not exceed 0.6m;
- (f) the depth of the Sign shall not exceed 0.9m;
- (g) the Sign shall be Displayed only while the model home or sales office is open to the public and shall be removed when the model home or sales office is closed; and
- (h) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.20. The following requirements apply to Yard Sale Signs:

- (a) the Sign shall be Displayed for not more than one (1) day prior to the event to which it pertains and not more than one (1) day after the event to which it pertains;
- (b) the Height of the Sign shall not exceed 0.75m from Grade;
- (c) the area of any side or visible face of the Sign shall not exceed 0.37m<sup>2</sup>;
- (d) the Sign shall have no more than two (2) sides or visible faces;
- (e) the Sign may be situated on the boulevard between a Public Sidewalk and a Highway;
- (f) the Sign must be set back at least 0.5m from the edge of the travelled portion of any roadway;
- (g) the Sign Owner shall immediately remove the Sign upon request by the Owner or Occupant of a Property abutting the boulevard where the Sign is Displayed.

## **8. Sign By-law Variance**

- 8.1. Any Person may apply to the Town for a minor variance to any provision of this By-law.
- 8.2. An application under subsection 8.1 shall be made in writing to the Director, in the form determined by the Director from time to time, and shall be accompanied by the applicable fee as established by the Fees and Charges By-law, which shall be non-refundable irrespective of the outcome of the application.
- 8.3. The Director may authorize a minor variance if in the opinion of the Director the proposed variance is minor in nature and the general intent and purpose of this By-law are maintained.

- 8.4. Notwithstanding subsection 8.3, the Director shall not authorize a variance if it would result in the Display or Alteration of a Sign that is prohibited under this By-law.
- 8.5. In considering a variance application the Director shall have regard to:
- (a) any special circumstances or conditions relating to the land, Building or use identified in the application;
  - (b) whether strict application of this By-law, in the context of the special circumstances applying to the land, Building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
  - (c) whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant;
  - (d) whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located; and
  - (e) design guidelines for Signs or neighborhood character set out in secondary plans and area-specific policies of the Town of Pelham Official Plan.
- 8.6. The Director may impose terms, provisions or restrictions as conditions of granting a minor variance to provisions of this By-law which shall be deemed to be conditions of the associated sign Permit.
- 8.7. Where an application for a variance is not in the prescribed form, is incomplete, provides insufficient information or is not accompanied by the requisite fee, the Director may refuse to accept the application or may return the application.
- 8.8. The applicant for a minor variance may appeal the decision of the Director to Council by submitting a written appeal request to the Clerk within twenty-one (21) days of the Director's decision.
- 8.9. The Clerk shall fix a hearing date and shall give the applicant not less than seven (7) days' notice. If the applicant fails to attend at the appointed time and place the hearing may proceed and the applicant shall not be entitled to further notice of the proceedings.
- 8.10. The decision of Council is final.
- 8.11. A variance granted by the Director shall expire ninety (90) days from the issuance of the associated Permit if the Sign is not Displayed within that period.
- 8.12. A variance granted by the Director shall expire if the Sign for which the variance was granted is Altered, removed or relocated.

## **9. Enforcement**

- 9.1. This By-law shall be administered and enforced by the Town, the Director and Enforcement Authorities.

- 9.2. An Enforcement Authority 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*.
- 9.3. No Person shall obstruct or hinder, or attempt to obstruct or hinder, an Enforcement Authority in the exercise of a power or the performance of a duty under this By-law.
- 9.4. Where a Sign is Displayed on or over Property owned by or under the jurisdiction of the Town, the Town may immediately remove the Sign without notice or compensation to the Sign Owner.
- 9.5. Where a Sign is Displayed or Altered in contravention of this By-law, the Town may immediately remove any Sign that the Director or an Enforcement Authority determines constitutes a safety hazard without notice or compensation to the Sign Owner.
- 9.6. An Enforcement Authority may, at all reasonable times, enter upon and inspect any land to determine if this By-law is being complied with.
- 9.7. For the purposes of an inspection under subsection 9.6, an Enforcement Authority may require the production for inspection of documents or things relevant to the inspection, inspect and remove relevant documents or things for the purpose of making copies or extracts, and/or require information from a Person concerning a matter related to the inspection.
- 9.8. Where an Enforcement Authority is satisfied that a Sign has been Displayed or Altered in contravention of this By-law, he or she may make an Order requiring the Person who contravened the By-law or caused or permitted the contravention and/or the Owner of the Property where the Sign is Displayed to bring the Sign into compliance with this By-law.
- 9.9. An Order made under subsection 9.8 shall set out the address of Property where the Sign is Displayed, reasonable particulars of the non-compliance and the date by which there must be compliance with the Order.
- 9.10. An Order made under subsection 9.9 may be served by regular mail, registered mail or hand delivered to the last known address of the Person to whom it is issued, by email to the last known email address of the Person to whom it is issued, or by posting the Order at Property where the contravention occurred.
- 9.11. Where a Person fails to comply with an Order made under section 9.8 by the prescribed date, the Town may, at the expense of the Person in default of the Order, do any matter or thing necessary to bring the Sign into compliance with this By-law and/or may remove the Sign without notice or compensation to the Sign Owner.
- 9.12. The Town may recover the cost of any matter or thing done under subsection 9.11 by adding the cost to the tax roll for the Property where the Sign was Displayed and collecting it in the same manner and with the same priority as municipal taxes.

- 9.13. Signs removed by the Town in accordance with this By-law shall be stored by the Town for a period of not less than thirty (30) days, during which time the Sign Owner may reclaim the Sign and any appurtenant Sign Structure upon payment of a storage fee in the amount of \$50.00 per day from the date of removal to the date of reclamation.
- 9.14. Where a Sign has not been reclaimed within thirty (30) days of its removal, the Town may dispose of it forthwith.
- 9.15. Where a Sign has been removed and stored by the Town and has not been claimed, all costs and charges for the removal, care and storage of the Sign under this By-law are a lien against it that may be enforced by the Town as provided for under the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.24.
- 9.16. The Town shall not be liable to compensate any Person by reason of anything done by or on behalf of the Town in the reasonable exercise of its powers under this By-law.

## **10. Penalty**

- 10.1. Every 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 *Provincial Offences Act*, R.S.O. 1990, c. P.13.
- 10.2. Administrative Penalty Process By-law No. 4352(2022) applies to each Administrative Monetary Penalty issued pursuant to this By-law.
- 10.3. Every Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law No. 4352(2022), be liable to pay to the Town an Administrative Monetary Penalty in the amount of two hundred and fifty dollars (\$250.00) for each day on which the contravention occurs or continues, unless otherwise provided for in Schedule "A", which is attached hereto and forms part of this By-law.

## **11. General**

- 11.1. The short title of this By-law is the "Sign Regulation By-law".
- 11.2. All measurements used in this By-law shall be subject to rounding such that decimals with a value of less than 0.5 or 0.05, as the case may be, shall be rounded down to the next whole unit and decimals with a value of 0.5 or greater or 0.05 or greater, as the case may be, shall be rounded up to the next whole unit.
- 11.3. Ratios and percentage figures shall not be subject to rounding.
- 11.4. This By-law shall be read with all changes in number or gender as are required by context.
- 11.5. 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.

- 11.6. 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.
- 11.7. Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 11.8. 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.

**12. Repeal and Enactment**

- 12.1. By-law No. 4190(2020), being a by-law prohibiting and regulating signs and regulating the placing of signs upon highways and buildings, is hereby repealed and replaced.

**13. Effective Date**

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

Read, enacted, signed and sealed this XXst day of XXXX, 2023.

\_\_\_\_\_  
Marvin Junkin, Mayor

\_\_\_\_\_  
William Tigert, Acting Town Clerk

**Schedule "A"**  
**Administrative Penalties**

Section	Description	Penalty
6.1(u)	Display Congratulatory Sign more than seventy-two (72) hours	\$50.00
7.16(a)	Display Special Event Lawn Sign more than thirty (30) days prior to event	\$75.00
7.16(a)	Display Special Event Lawn Sign more than five (5) days after event	\$50.00
7.18(a)	Display Real Estate Open House Sign on Public Road Allowance before 4:00 p.m. on non-holiday Friday	\$75.00
7.18(a)	Display Real Estate Open House Sign on Public Road Allowance after 9:00 a.m. on a non-holiday Monday	\$75.00
7.20(a)	Display Yard Sale Sign for more than one (1) day prior to event	\$50.00
7.20(a)	Display Yard Sale Sign for more than one (1) day after event	\$50.00

**Subject:** Wellington Heights Pedestrian Crossing Update**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0182 - Wellington Heights Pedestrian Crossing, for information;**

**AND THAT Council directs staff to not proceed with the installation of a LEVEL 2 – Type B PXO crossing on Canboro Road at Wellington Heights School as approved in the 2023 Capital Budget under project RD 10-23.**

**AND THAT Council directs staff to proceed with repainting the existing line markings and installing removable bollards along the road centerline within the crosswalk excluding the winter months November to March with project costs charged to RD 10-23.**

**Background:**

There is an existing pedestrian crossover (PXO) on Canboro Road approximately 120m west of Cherry Ridge Boulevard that connects the walkway to Wellington Heights Public School to the south side of Canboro Road. Currently, the existing PXO is classified as a Level 2: Type D controlled crossing, complete with a painted crossing, shark teeth pavement markings, and “Stop for Pedestrians” signs mounted on standard roadside metal posts. There have been concerns raised by residents that the existing crossing is insufficient and should be evaluated for improvement. Therefore, a project (RD 10-23) was approved in the 2023 Capital Budget to improve the crossing in the amount of \$50,000.

The Niagara Region (Region) is responsible for the design and maintenance of all intersections in Niagara, including PXOs. In order to have an intersection or crossing altered, municipal staff must file a request through the Region’s intersection design portal and provide a topographic survey of the area. After that has been received, Region staff analyze the area for constraints, and to determine what type of intersection or crossing is warranted. Town staff filed a request through the Region’s system in March of 2023 and provided them with a topographic survey in June. Town staff requested that the existing crossing be upgraded to a Level 2: Type C, or Level 2: Type B. Both would see that a “Stop for Pedestrians” sign be mounted on a traffic pole with solar-powered flashing lights, as

well as updated line painting. The difference between the two is that a Type B would have overhead arms hanging above the road that have signage indicating the crossing and the Type C does not (see Appendix A for Level 2: Type C and Level 2: Type B crossings).

Town engineering staff met on-site with the Region intersection design staff in July. At that time, the Region staff identified numerous concerns with upgrading the existing crossing to a Type B and Type C, including safety concerns for vehicles, and timing and budget concerns for the amount of work that would be required.

### **Analysis:**

While on-site, Region staff noted that there are no issues with sightlines as the road is straight and the crossing is visible for a good distance on both the east and westbound approaches, the speed limit on this section of road is 40 km/h which provides ample reaction time for drivers, and there is ample signage indicating that there is a crossing, which means the drivers should be aware of it. Region staff did identify numerous concerns with upgrading the PXO type, which would require large metal poles to be installed. The list of concerns is as follows:

- There are overhead hydro lines on the north side of the road, in line with where the metal poles would need to be installed. The hydro lines would be in direct conflict with the poles. Therefore, either the hydro lines would need to be buried, or the PXO crossing poles be moved.
- There is an asphalt swale on both sides of the road which direct runoff west. Since there is no underground storm infrastructure on this section of road, the swale needs to be maintained so that the drainage is not impacted, and flooding does not occur.
- Given the conflict with the hydro lines and the existing property lines, the metal PXO crossing pole would have to be installed in the existing road shoulder. This would result in the pole being installed close, or even in the clear zone. Clear zone is the minimum desired separation between roadside hazards and the travel lane. It is meant to provide recovery space for vehicles that veer out of the travel lane and reduce the potential for serious collisions. Clear zone distances are identified in the Transportation Association of Canada Geometric Design Guide for Canadian Roads Chapter 7 – Roadside Design and for a road with a speed less than 60 km/h and average daily traffic between 1,500 – 6,000 vehicles per day, the minimum desired clear zone distance is 3.5m.

- If a pole were to be installed in the shoulder, it would directly impact the drainage. Curbs would have to be installed to create a safe landing for pedestrians as well as reduce the risk of cars veering off the road and striking the metal traffic pole. Since there is no underground storm infrastructure, the entire section of the right-of-way would have to be regraded to maintain the flow of runoff west, and not create a flooding hazard.
- The estimated budget from Region staff based on similar crossings they recently completed is over \$100,000. This is due to the rising cost of materials and the amount of civil work that would be required to make the crossing compliant. Given all the civil works required, the design would also not be finalized and tendered this year and would be deferred to 2024. The Town currently has \$50,000 that was approved in the 2023 Capital Budget for this project.

Based on the identified constraints, staff believes the best course of action is to repaint the existing line markings to accentuate the crossing and install removable centreline bollards in the centerline of the road within the crossing area. The removable bollards will make the travel lanes appear narrower and encourage vehicles to slow down. The bollards will need to be removed in the winter to allow for snowplows to pass through. Staff will also analyze alternative methods for traffic calming that may be applicable to this section of the road. The works will be completed in 2023, and staff can begin acquiring the bollards prior to the school year starting.

It should be noted that this section of Canboro Road has been identified in the Capital Budget 10-year forecast as being urbanized, which will likely include storm infrastructure, curb and gutter, and changes to the road cross-section. The work will be required once East Fenwick is developed. It will be more cost effective to evaluate the possibility of installing a Level 2: Type C or Level 2: Type B PXO crossing at that point in time.

#### **Financial Considerations:**

The budget amount approved for this project (RD 10-23) in the 2023 Capital Budget was \$50,000. Based on the topographic survey that was prepared, the cost to repaint the line markings, and install removable centreline flexible bollards, is estimated to be \$17,500 (plus applicable taxes). This would result in a total project savings of \$32,500.

#### **Alternatives Reviewed:**

Given all the constraints, Region staff provided the alternative solution of installing a "school crossing" instead. The school crossing would see that signage and solar-

powered flashing lights be installed on the road shoulder on a 6" x 6" wood breakaway post, and the pavement markings be repainted to be more visible. The lights would be set to timers based on the start and end times of the school, with leeway on either end. Region staff install these themselves and anticipate they will be able to have it completed this year. It is also much more cost-effective as there is less work involved. See the below picture for a similar school crossing the Region that has recently been installed.



A school crossing is technically a step down from a Level 2: Type D PXO crossing as it is legally considered an uncontrolled crossing. The lights will only be activated during the times they are programmed for. Unless a school crossing guard is present, vehicles have the right of way through the crossing. Therefore, to make it a controlled crossing, the school crossing will need a crossing guard. Staff are not in favour of this option as a Crossing Guard Warrant Study was prepared by Fire and Protection Services staff in 2019 which identified that a crossing guard is not warranted. A school crossing would also mean that pedestrians would only have the right-of-way when a crossing guard is present, instead of all the time as per current conditions.

Alternatively, Council could instruct staff to proceed with the design and installation of a Level 2: Type C or Level 2: Type B PXO. Staff is not in favour of this option as it would create many safety concerns for vehicles, the crossing would not be installed this year due to a backlog of work, and staff estimates it would cost between \$100,000 and \$120,000 due to the rising costs of materials and extensive civil works that would be required.

## **Strategic Plan Relationship: Infrastructure Investment and Renewal**

Repainting the existing line markings and installing removable centreline flexible bollards will revitalize the existing PXO crossing and encourage the safe movement of pedestrians and vehicles.

### **Consultation:**

Consultation was had with the Fire Chief and Niagara Region Staff in preparation of this report.

### **Other Pertinent Reports/Attachments:**

Appendix A: Level 2: Type B and Level 2: Type C PXO crossing diagrams.

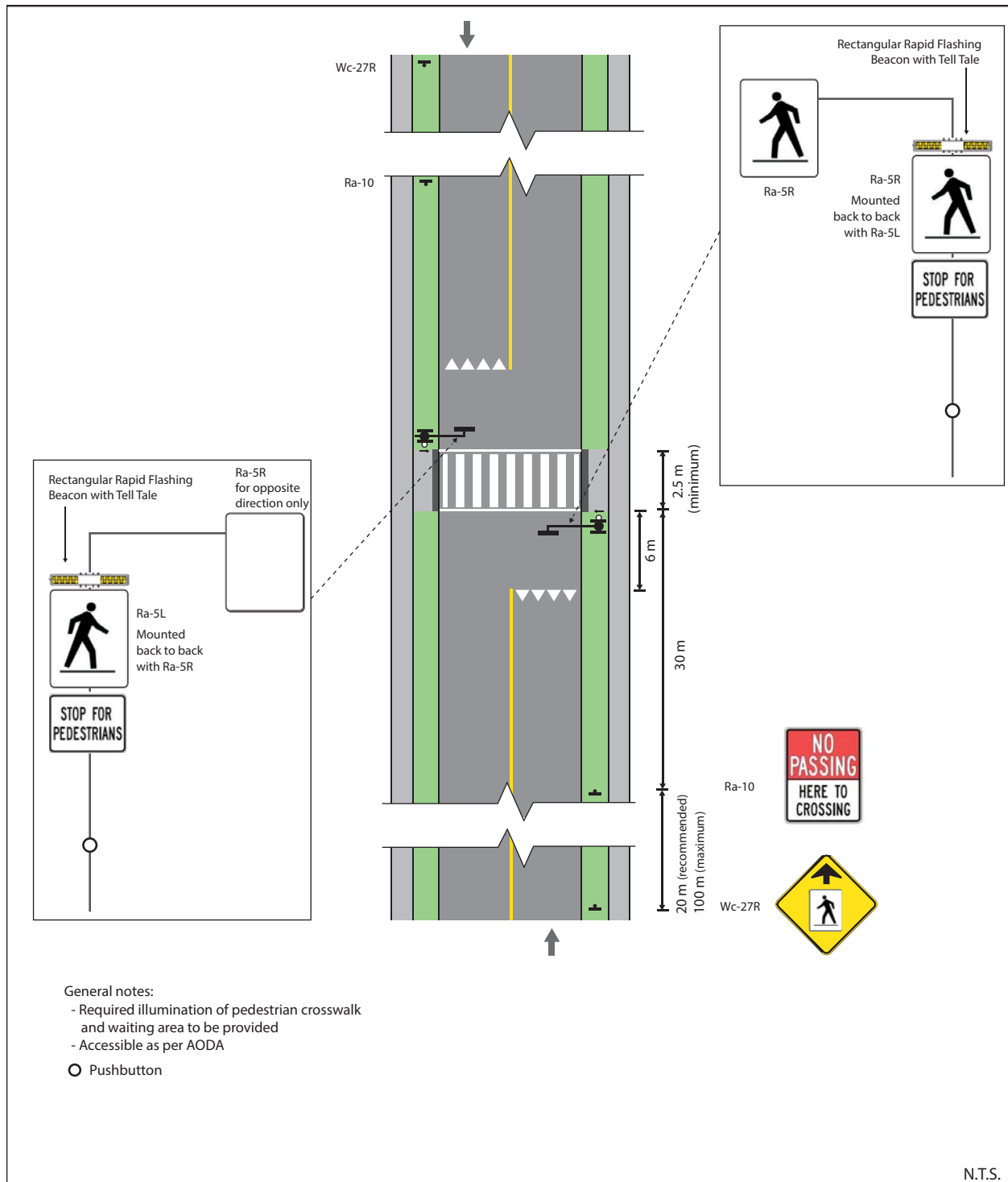
### **Prepared and Recommended by:**

Lucas Smith, B. Eng., E.I.T.  
Engineering Technologist

Jason Marr, P. Eng.  
Director of Public Works

### **Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



**Figure 21: Pedestrian Crossover Level 2 Type B – Mid-block (2-lane, 2-way)**



**Subject:** Station Street Watermain Replacement Project**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0183 - Station Street Watermain Replacement Project, for information;**

**AND THAT Council approve the award of the Station Street Watermain Replacement Project to Demar Construction Inc. in the amount of \$356,694, plus applicable taxes of \$6,278, for a total project cost of \$362,972;**

**AND THAT Council approve a budget increase of \$187,972 for project WTR 04-21, funded through the reallocation of funds from project WTR 03-21.**

**Background:**

The Station Street Watermain Replacement project from Hurricane Road to Lyndhurst Avenue, WTR 04-21, was approved in the 2021 Capital Budget in the amount of \$175,000. The existing watermain is a 150mm diameter cast iron pipe and has reached the end of its service life. It has been identified in the Town's Drinking Water Quality Management Standard (DWQMS) that all cast iron watermains in Pelham are to be replaced with PVC pipe by 2030, including this section on Station Street.

The design of the watermain replacement for Station Street was undertaken in 2021 in conjunction with the designs for the watermain replacement projects on Park Lane and Clare Avenue. The watermain on Park Lane was successfully replaced in 2022. The replacement of the watermain on Clare Avenue has been put on hold due to a section of it being replaced as part of the Quaker Road reconstruction project, and Clare Avenue from Quaker Road to the Welland/Pelham border has now been brought into the urban boundary. Therefore, the Town will be undertaking a future project to assess the capacity of the existing infrastructure to meet the demands of future development and will reconstruct the road to an urban cross-section. At that point in time the watermain on Clare Avenue will be replaced.

## **Analysis:**

Staff tendered the Station Street Watermain Replacement Project in July and closed it on August 2<sup>nd</sup>, 2023. Four (4) bids were submitted ranging from \$356,694 to \$818,188 (plus applicable taxes), with the lowest being Demar Construction Inc. (Demar). All bids exceed the \$175,000 that was approved by Council in the 2021 Capital Budget, with the lowest bid exceeding the approved budget by \$181,694 (plus applicable taxes). The unofficial tender results are as follows:

1) Demar Construction Inc.	\$356,694 (plus applicable taxes)
2) Cotton Inc.	\$476,036 (plus applicable taxes)
3) Alfidome Construction Niagara	\$539,751 (plus applicable taxes)
4) Master Utility Division Inc.	\$818,189 (plus applicable taxes)

The unit prices provide in the low bid tender document are aligned with current construction costs on recent projects, such as Pelham Street Phase 4. The construction industry has seen significant cost increases in material and labour over the last three years. Therefore, staff believe that the low tender amount of \$356,694 (plus applicable taxes) is a competitive price and better reflects the current construction market.

As stated previously, the watermain replacement on Clare Avenue has been put on hold as a portion of it will be replaced with Quaker Road project, and the urban boundary being expanded to include the entire road allows for increased residential development in that area. This requires that an assessment of the capacity and future demands on the Clare Avenue system be undertaken. Therefore, a future project to urbanize the road and replace the existing infrastructure will be required, rather than a simple watermain replacement. The replacement of the watermain on Clare Avenue was approved in the 2021 Capital Budget in the amount of \$250,000 through project WTR 03-21. As the Clare Avenue works will be postponed until a full urbanization design has been completed, and that the future project will likely be eligible for partial funding through Development Charges, staff are proposing to reallocate the remaining funds from WTR 03-21 towards the Station Street Watermain Replacement project (WTR 04-21).

## **Financial Considerations:**

As outlined above, the approved budget for Project WTR 04-21 Station Street Watermain Replacement does not have sufficient funds to award this project to the lowest bidder (Demar). Staff have recommended to reallocate the remaining funds from project WTR 03-21 to fund the shortfall in budget for WTR 04-21 Station St Watermain Replacement. Since both of these projects are funded from the Water Reserve, the net impact of these recommendations will result a return of \$27,871

back to the Water Reserve. Please see table 1 below for a summary of financial impact.

<b>Table 1: Financial Impact</b>								
<b>Project</b>	<b>Cost Center</b>	<b>Approved Budget</b>	<b>Lowest Tender Amount</b>	<b>Non-Recovable HST</b>	<b>Cost Incurred To Date</b>	<b>Total Project Cost</b>	<b>Budget Shortfall (Surplus)</b>	
WTR 04-22 Station St Watermain Replacement	700276	\$ 175,000	\$356,694	\$ 6,278	\$ -	\$ 362,972	\$ 187,972	
WTR 03-21 Clare Ave Watermain Replacement (Note 1)	700277	\$ 250,000	\$ -	\$ -	\$ 34,157	\$ 34,157	\$ (215,843)	
<b>Net Impact (Return) to Water Reserve</b>							<b>\$ (27,871)</b>	
Notes:								
1 - Project WTR 03-21 Clare Ave Watermain replacement has incurred total cost of \$34,157 for geotechnical and design work. The remaining \$215,843 budget is available to be reallocated to WTR 04-22 and to be returned back to Water Reserve.								

### **Alternatives Reviewed:**

An alternative to awarding the Station Street Replacement Project is to cancel the tender and defer the project to 2024. Staff is not supportive of this option as the watermain has likely reached the end of its service life, and delaying the project any further increases the risk of a watermain break. Staff also believe that the unofficial low bid amount of \$356,694 is a competitive price and is in alignment with current industry pricing.

### **Strategic Plan Relationship: Infrastructure Investment and Renewal**

Delaying investments into the Town's drinking water infrastructure increases the risk of failure due to age and condition, which results in an increase in the risk to residents and businesses being without drinking water due to the failure.

### **Consultation:**

Consultation was had with the Manager of Financial Services & Deputy Treasurer in preparation of this report.

### **Other Pertinent Reports/Attachments:**

N/A

### **Prepared and Recommended by:**

Lucas Smith, B. Eng., E.I.T.  
Engineering Technologist

Jason Marr, P. Eng.  
Director of Public Works

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**Subject:** MCC – Draft Licence Agreements – Pelham Panther Hockey Club Limited and Pelham Junior Hockey Club

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0183 MCC – Draft Licence Agreements – Pelham Panther Hockey Club Limited and Pelham Junior Hockey Club, for information;**

**AND THAT Council authorizes and directs staff to enter into a licence agreement with Pelham Panthers Hockey Club Limited, which agreement shall be in a form satisfactory to the Town Solicitor and substantially the same as the draft licence agreement attached hereto;**

**AND THAT Council authorizes and directs staff to enter into a licence agreement with Pelham Junior Hockey Club for concession and vending machine operations at the Meridian Community Centre, which agreement shall be in a form satisfactory to the Town Solicitor and substantially the same as the draft agreement attached hereto;**

**AND THAT if either of Pelham Panthers Hockey Club Limited or Pelham Junior Hockey Club requests substantive revisions to the draft agreements attached hereto, that Council approves a sixty (60) day extension of the existing licence agreement to permit finalization of the draft agreements and Council approval of same.**

**Background:**

At the July 26<sup>th</sup> Council meeting, Council deferred consideration of the draft licence agreements with Pelham Panthers Hockey Club Limited and Pelham Junior Hockey Club and requested further information about other municipalities' arrangements with Junior B hockey teams and attendance numbers at games.

## **Analysis:**

### ***Junior B Hockey Team Comparison***

The Pelham Panthers hockey team is part of the Greater Ontario Junior Hockey League (GOJHL) Golden Horseshoe Conference. Staff contacted other municipalities associated with teams in the GOJHL Golden Horseshoe Conference to request information about the arrangements with their teams as not all municipalities have formal agreements. Staff obtained average attendance records from the GOJHL website.

The information gathered to date can be summarized as follows:

#### Caledonia Corvairs (Haldimand County)

- No formal agreement
- Team has dedicated dressing room for which no rent/fees are paid
- Team pays minor hockey ice rates
- Team pays for double flood after practices
- Team purchases ice logos
- Team pays for any rink board advertising
- Team keeps all gate proceeds
- Average attendance 450

#### Fort Erie Meteors

- Formal lease agreement for five-year term
- Team has dedicated dressing room with storage and office space
- Team pays monthly utility fee based on square footage but no other rent/fees
- Team pays minor hockey ice rates
- Team has no entitlement to advertising, concession operations, etc.
- Team keeps all gate proceeds
- Average attendance 264

#### Hamilton Kilty B's

- No response to request for information received at time of writing
- Average attendance 214

#### Port Colborne Sailors

- Temporary relocation from Thorold during 2022/2023 season
- Relocation announced as permanent in May 2023
- Municipality in negotiations with team but no formal agreement at this time
- Team currently pays minor hockey rates
- Team currently has dedicated dressing room (payment arrangements unknown)
- Average attendance 221 (Thorold)

#### St. Catharines Falcons

- Formal agreement expired in 2019
- Request for details of agreement declined as not public information
- Team previously operated out of Jack Gatecliffe Arena, which is now demolished
- Municipality in negotiations for team to operate at Seymour Hannah Sport Centre
- Average attendance 425

#### Welland Jr. Canadians

- No response to request for information received at time of writing
- Average attendance 174

#### Niagara Falls Canucks

- Formal five-year agreement
- Team has dedicated dressing room with storage and two offices
- Team pays no rent/fees for use of space
- Team previously coordinated upper-tier advertising at Memorial Arena
- Municipality took over advertising when Gale Centre opened
- Team receives \$60,000 grant from municipality to compensate for advertising
- Team pays minor hockey ice rates that are subtracted from \$60,000 grant
- Municipality pays team any monies remaining at end of the season
- Average attendance 333
- Team no longer in GOJHL for 2023/2024 season but agreement has not changed

#### Pelham Junior Hockey Club (current/existing agreement)

- Formal five-year agreement that expires on August 31, 2023
- Team has designated "Jr. B Zone" that includes dressing room, shower facilities, two offices, kitchenette and washer/dryer
- Team pays annual licence fee of \$1 but no other rent/fees for use of Jr. B Zone
- Team pays Adult Rate for game ice rentals and Youth Rate for practice ice rentals
- Team keeps gate proceeds if attendance is less than 500
- If attendance is 500 or more then Town receives 40% of paid gate admission
- Team must supply security if attendance is over 400
- Average attendance 165
- Team operates concession stand and vending machines but has no other rights in relation to food and beverages at the facility
- Team pays annual licence fee of \$2000 for concession stand operations

In addition to the existing licence agreement, prior to 2021 the team had a three-year agreement for all advertising at the MCC. The Town did not renew the agreement and took over advertising at the facility in July 2021.

### ***Proposed Agreements with Pelham Panthers and Pelham Junior Hockey Club***

Staff have revised the proposed agreements with Pelham Panthers Hockey Club Limited and Pelham Junior Hockey Club based on comments and direction provided by Council. The revised draft agreements are appended to this report. Staff have not reviewed the proposed revisions with the licensees but will do so if Council approves the agreements.

The proposed agreements can be summarized as follows:

#### Pelham Panthers Hockey Club Limited

- Formal three-year agreement that expires on August 31, 2026
- Intention to renew must be expressed at least six months prior to expiration
- Team has exclusive use of dressing room with two offices, kitchenette, changing room and shower facilities
- Team pays annual licence fee with incremental increases:
  - Year 1: \$1000
  - Year 2: \$1250
  - Year 3: \$1500
- Team pays Adult Rate for all ice rentals
- Town will not remove ice from Accipiter Arena until team finishes playoff games
- Team must supply security if it reasonably anticipates attendance of 400 or more
- Team keeps gate proceeds if attendance is less than 500
- If attendance is 500 or more then Town receives 50% of admission fees

#### Pelham Junior Hockey Club

- Formal three-year agreement that expires on August 31, 2026
- Intention to renew must be expressed at least six months prior to expiration
- Club operates concession stand and vending machines but has no other rights in relation to food and beverages at the facility
- Fixed hours of operation for concession stand (approximately 53 hours/week)
- Club pays annual licence fee of \$3000

It is noted that the proposed agreements are each for 3-year terms and Council will have the opportunity to review these agreements again prior to their expiry and determine at that time what has worked positively and/or where adjustments may need to be made. The agreements represent an improvement and step forward from the current agreements.

### **Financial Considerations:**

There is little direct financial impact associated with the proposed agreements. Both agreements provide for higher licence fees than the current agreement and the revised draft agreement with Pelham Panthers introduces an annual increase to the licence fee. The licence fees will provide an offset for utility or other costs incurred by the Town in relation to the agreements. The Town incurs no additional staffing costs as a result of these agreements. The Pelham Panthers agreement also requires the team to pay standard ice rental rates and thus has no adverse financial impact.

In terms of indirect financial impacts, the Town benefits from having a GOJHL team in the community. Games and tournaments provide community entertainment and bring in players and spectators who support local businesses. In addition, the Pelham Panthers support other community initiatives such as food drives and minor hockey teams, which also reflects positively on the Town.

### **Alternatives Reviewed:**

Council may not approve the proposed revisions to the draft licence agreements or may direct further changes to their terms.

As the existing agreement is set to expire shortly and the proposed revised agreements have not yet been reviewed with the licensees, Council may also authorize an extension of the existing agreement to permit finalization of the new agreements and approval by Council.

### **Strategic Plan Relationship: Community Development and Growth**

The proposed licence agreements support the operations of a GOJHL team in the Town, which provides benefits to the community and local businesses as outlined above. As indicated above, the Pelham Panthers also support the community through other initiatives and having a Junior B team in Pelham helps build community spirit and pride for the Town of Pelham that reflects positively on the Town and is an important component of building a community.

### **Consultation:**

Staff consulted other municipalities with GOJHL Golden Horseshoe Conference teams. The Chief Administrative Officer and Town Solicitor were consulted and involved in the preparation of this report.

### **Other Pertinent Reports/Attachments:**

1. Draft Licence Agreement – Pelham Panthers Hockey Club Limited
2. Draft Licence Agreement – Pelham Junior Hockey Club

**Prepared and Recommended by:**

Vickie vanRavenswaay, CRFP  
Director of Recreation, Culture and Wellness

**Approved and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**THIS AGREEMENT** made on the \_\_\_\_ day of \_\_\_\_\_, 2023 ("the Agreement").

B E T W E E N:

THE CORPORATION OF THE TOWN OF PELHAM

("the Town")

- and -

PELHAM PANTHERS HOCKEY CLUB LIMITED

("the Licensee")

**WHEREAS** the Town owns the Meridian Community Centre located at 100 Meridian Way in the Town of Pelham ("the Facility"); and

**WHEREAS** the Licensee is a junior hockey organization that desires to use the Facility for its operations and to obtain a licence from the Town for that purpose; and

**WHEREAS** the Town has agreed to grant a licence to the Licensee on the terms and conditions set out in this Agreement; and

**WHEREAS** the Licensee is a corporation incorporated pursuant to the laws of Ontario and has properly authorized entering into this Agreement; and

**WHEREAS** By-law No. [XX-2023] was passed by the Council of the Town on [DATE], authorizing the Town to enter into this Agreement;

**NOW THEREFORE, IN CONSIDERATION** of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Town and the Licensee (each "a party" and collectively "the parties") agree as follows:

## **1. TERM**

- 1.1. The Term of this Agreement shall be from September 1, 2023 to August 31, 2026 unless terminated earlier in accordance with the provisions herein.
- 1.2. This Agreement may be renewed or extended, on the same or different terms as contained herein, and subject to the following conditions:

- a. not less than six (6) months and not more than twelve (12) months prior to the end of the Term, the Licensee shall provide written notice to the Town of its desire to renew or extend this Agreement;
- b. the terms and conditions of the renewal or extension of this Agreement shall be mutually agreeable to the Town and the Licensee; and
- c. the renewal or extension of this Agreement shall be approved by Council of the Town.

## **2. GRANT OF LICENCE**

- 2.1. The Town hereby grants to the Licensee a licence to enter and use the Facility during the Term for the purposes of hockey practices, games, tournaments, clinics, dryland training and fundraising events as set out in this Agreement and in accordance with all terms and conditions contained herein.
- 2.2. The Town covenants and agrees that during the Term, it shall not enter into an agreement with any junior hockey club other than the Licensee to grant a licence of the type described in subsection 2.1 of this Agreement.
- 2.3. Nothing in this Agreement shall be deemed, construed or interpreted to grant any easement, title, right or interest in the Facility to the Licensee or to create any partnership, agency or joint venture relationship between the parties.

## **3. PELHAM PANTHERS HOCKEY CLUB LIMITED PREMISES**

- 3.1. Subject to subsections 3.4 and 3.5, during the Term the Licensee shall have an exclusive licence to use the dressing room area on the lower level of the Facility, adjacent to the Accipiter Arena, which consists of two (2) offices, one (1) kitchenette, one (1) changing room and shower facilities ("the Premises").
- 3.2. Subject to subsection 3.5, during the Term the Licensee shall further have an exclusive licence to use the areas of the Facility known as the Accipiter Arena and the Duliban Arena while rented by the Licensee pursuant to section 4 of this Agreement but shall otherwise have no licence in relation to those areas.
- 3.3. During the Term the Licensee shall have a non-exclusive licence to use other areas of the Facility for the purposes described subsection 2.1, subject to the Town's approval of any events or activities not otherwise provided for herein.
- 3.4. Notwithstanding subsection 3.1, the Town shall have the right to enter the Premises for any purpose whatsoever upon providing twenty-four (24) hours' notice to the Licensee. The Licensee shall not be entitled to any compensation for any inconvenience, nuisance or discomfort occasioned thereby.
- 3.5. Notwithstanding subsections 3.1 and 3.2, in the event of an emergency the Town shall have the right to enter all areas of the Facility without notice and the Licensee shall not be entitled to any compensation for any inconvenience, nuisance or discomfort occasioned thereby.

- 3.6. The Licensee shall be responsible for the installation, maintenance and repair of improvements within the Premises but shall not undertake any such work without first obtaining the prior written consent of the Town.
- 3.7. The Licensee shall be responsible for routine cleaning and maintenance of the Premises and shall keep the Premises in a condition satisfactory to the Town. The Town shall conduct periodic inspections of the Premises upon providing notice to the Licensee as required by subsection 3.4.
- 3.8. In the event that the Licensee fails to maintain the Premises in a condition satisfactory to the Town, the Town may arrange for cleaning of the Premises at the expense of the Licensee.

#### **4. ARENA PREMISES**

- 4.1. The Licensee acknowledges and agrees that in each year of the Term, it shall rent no fewer than seven (7) hours of prime time ice hours per week between the first (1<sup>st</sup>) day of September and the thirty-first (31<sup>st</sup>) day of March. The Licensee shall rent additional ice time as needed and as available for games, tournaments or clinics operated by the Licensee.
- 4.2. The parties acknowledge that the Town ordinarily removes the ice from the Accipiter Arena on or about the thirty-first (31<sup>st</sup>) day of March each year so that it can be used for non-hockey events and activities. Notwithstanding the foregoing, should the Licensee require use of the Accipiter Arena after the thirty-first (31<sup>st</sup>) day of March to compete in playoff games, the Town shall not remove the ice until the Licensee has concluded its playoff games.
- 4.3. In each year of the Term, the Licensee shall be entitled to summer ice rentals for three (3) weeks during the month of August to conduct hockey tryouts. The Licensee may request additional summer ice hours, which the Town shall distribute to all user groups pursuant to its allocation policy. For greater certainty, the Town shall be under no obligation to provide additional summer ice hours to the Licensee except in accordance with the allocation policy, as amended or updated from time to time.
- 4.4. On or before the first (1<sup>st</sup>) day of rental in each year of the Term, the Licensee and the Town shall agree in writing to a schedule of the rental hours that the Licensee has agreed to under subsection 4.1 and to which it is entitled under subsection 4.3.
- 4.5. The Licensee shall sign a standard facility rental agreement with the Town for each rental described herein.
- 4.6. The Licensee shall be responsible for the installation, removal and replacement of its on-ice logo in the Accipiter Arena on an annual basis and shall further repair or replace its on-ice logo as directed by the Town where the Town, acting reasonably, determines that this is required.

- 4.7. The Licensee shall have the following responsibilities in relation to all hockey games of the Licensee held at the Facility:
- a. to supply sequentially numbered admission tickets, which shall not exceed the maximum seating capacity of the Facility;
  - b. if the number of tickets sold for a game is five hundred (500) or more, to pay fifty percent (50%) of the admission fees to the Town;
  - c. where the Licensee reasonably anticipates that four hundred (400) or more patrons will be in attendance, to hire one (1) or more licensed security guards for every four hundred (400) patrons attending the game and to hire additional security guards as directed by the Town where the Town, acting reasonably, determines that this is required for the safety of patrons at the game; and
  - d. to remove its camera equipment from the arena at the end of each game.
- 4.8. Patrons who enter the Facility within one (1) hour prior to a hockey game or during a game shall not be permitted to use the walking track at the Facility without paying the admission fee.

## **5. FEES PAYABLE BY LICENSEE**

- 5.1. The Licensee shall pay an annual licence fee in each year of the Term for the licences granted under section 3 of this Agreement, which shall be as follows:
- a. Year 1: One thousand dollars (\$1000);
  - b. Year 2: One thousand, two hundred and fifty dollars (\$1,250); and
  - c. Year 3: One thousand, five hundred dollars (\$1,500).
- 5.2. All annual licence fees are payable in advance and in full on or before the first (1<sup>st</sup>) day of September in each year of the Term.
- 5.3. In addition to annual licence fees, the Licensee shall pay rental fees at the for use of the Facility under section 4 of this Agreement. The Licensee shall pay the adult rental rate for games, tournaments and clinics and the youth rental rate for practices. The rates payable by the Licensee shall be the standard rental rates set by the Town each year.
- 5.4. The Licensee shall pay all rental fees within thirty (30) days after the ice time to which they relate, failing which the licence granted to the Licensee under subsection 3.2 shall be suspended and the Licensee shall forfeit all scheduled ice time until all outstanding rental fees are paid in full.

## **6. INSURANCE AND INDEMNITY**

- 6.1. During the Term, the Licensee shall obtain and maintain in full force and effect one or more policies of commercial general liability insurance with aggregate limits of not less than five million dollars (\$5,000,000) per occurrence. The policy or policies shall include coverage for bodily injury, death and property damage and shall contain cross-liability and severability of interest clauses.

- 6.2. The Licensee's policy or policies of commercial general liability insurance shall name the Town as an additional insured with respect to this Agreement and shall contain an undertaking by the insurer(s) to give thirty (30) days written notice to the Town of any material change to the coverages and/or the expiry or cancellation of the said policy or policies.
- 6.3. The Licensee shall provide the Town with proof of insurance on or before the first (1<sup>st</sup>) day of September in each year of the Term.
- 6.4. Any failure by the Licensee to obtain or provide proof of insurance as required by this Agreement constitutes a default by the Licensee that entitles the Town to terminate this Agreement immediately and without further notice or liability.
- 6.5. The Licensee and the Town shall each indemnify and save harmless the other and its officers, employees, volunteers and agents from and against all losses, claims, actions, demands and liabilities for personal injury or property damage arising as a direct or indirect result of this Agreement, where such claims are caused wholly or in part by the negligence of the Licensee or the Town, as the case may be, or by anyone for whom it is in law responsible.
- 6.6. Notwithstanding subsection 6.5, the Licensee shall use the Facility at its sole risk and the Town shall not be liable for any loss or damage sustained by the Licensee or persons using the Facility pursuant to the licences granted herein, except to the extent that such loss or damage is caused by the negligence of the Town or anyone for whom it is in law responsible.
- 6.7. The Licensee shall give immediate written notice to the Town of any incident, injury or harm to any person using the Facility pursuant to the licences granted herein and shall further give immediate written notice to the Town of any loss, damage or defect at any part of the Facility that comes to the attention of the Licensee.

## **7. DEFAULT AND TERMINATION**

- 7.1. This Agreement is conditional on the Licensee obtaining all necessary permits and approvals to construct any improvements at the Premises and to operate at the Facility. A failure by the Licensee to obtain any necessary permits or approvals constitutes a default by the Licensee that entitles the Town to terminate this Agreement immediately and without further notice or liability.
- 7.2. Failure to comply with any of the terms and conditions of this Agreement shall be just cause for its termination. If either of the Licensee or the Town defaults in the performance of any of its obligations under this Agreement, the non-defaulting party shall give written notice of the default and shall provide sixty (60) days to remedy it, failing which the non-defaulting party may terminate this Agreement by written notice or may, in its sole discretion, extend the remediation period where the defaulting party has made efforts to remediate the default.

- 7.3. The Town and the Licensee shall each have the option to terminate this Agreement at any time during the Term by giving written notice of termination to the other party as follows:
- a. where the notice is delivered during the annual hockey season, which the parties agree ordinarily commences in or around early September and ends in or around early May, not less than ninety (90) days prior to the end of the season; and
  - b. where the notice is delivered outside the annual hockey season, not less than ninety (90) days prior to termination date.
- 7.4. This Agreement may be amended or terminated at any time during the Term by mutual agreement of the parties. Any such agreement shall be made in writing, signed by the parties and appended to this Agreement.
- 7.5. Upon termination of this Agreement by expiry or otherwise, the Licensee shall promptly remove any fixtures, equipment, goods or chattels it has installed or placed at the Premises or the Facility and shall repair any damage resulting from such removal to the satisfaction of the Town. The Licensee shall further peaceably surrender to the Town vacant possession of the Premises.

## **8. DISPUTE RESOLUTION**

- 8.1. In the event that a dispute arises as to the interpretation, application or execution of this Agreement, including but not limited to a party's rights or responsibilities or an allegation of default, the party that disputes the other party's position or conduct shall immediately provide written notice of the dispute to the other party.
- 8.2. Where a notice of dispute is received in accordance with subsection 8.1, the parties shall attempt to resolve the dispute through negotiation for a period of thirty (30) days from the date on which the notice is delivered. The parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 8.3. If a dispute cannot be resolved by the parties through negotiation, it shall be arbitrated in accordance with the *Arbitration Act, 1991*, S.O. 1991, c. 17. The decision of the arbitrator shall be final and binding on the parties.
- 8.4. The Licensee and the Town shall each bear their own costs associated with the determination of disputes arising under this Agreement, including but not limited to legal and arbitration costs.

## **9. GENERAL**

- 9.1. This Agreement constitutes the entire agreement between the parties relating to matters set out herein. There are no representations, promises, covenants or other terms relating to the subject matter of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the parties in relation to its subject matter.

- 9.2. The rights and obligations specified in any provision of this Agreement which by their nature would reasonably be interpreted as intended by the parties to survive the termination of this Agreement shall survive such termination.
- 9.3. The invalidity or unenforceability of any particular term of this Agreement shall not limit the validity or enforceability of the remaining terms, each of which is distinct and severable from all other terms of this Agreement.
- 9.4. Waiver by a party of any provision of this Agreement shall not constitute a waiver in any other instance and any such waiver must be made in writing. Any delay or failure on the part of either party to enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver and shall not operate as a bar to that party exercising or enforcing such right, power or remedy at any subsequent time.
- 9.5. This Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- 9.6. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and laws of Canada applicable therein.
- 9.7. All communications required under or contemplated by this Agreement shall be considered to have been sufficiently given if delivered by hand, sent by registered mail or sent by email to the party to which such notice is directed as set forth below:

If to the Licensee:

NAME

ADDRESS

EMAIL

Attention: CONTACT NAME

If to the Town:

The Corporation of the Town of Pelham

P.O. Box 400

20 Pelham Town Square

Fonthill ON L0S 1E0

Attention: Jennifer Stirton, Town Solicitor

[jstirton@pelham.ca](mailto:jstirton@pelham.ca)

or such other address of which either party has notified the other, in writing, and any such notice mailed or delivered shall be deemed sufficient under the terms of this Agreement.

- 9.8. Notices delivered or sent by registered mail are deemed to be effective on the date of receipt. Notices sent by email are deemed to be effective on the day the email is sent or, if sent after 4:00 p.m., on the following day.

- 9.9. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email or facsimile transmission.

**[signature page follows]**

DRAFT

**IN WITNESS WHEREOF** the parties have executed this Agreement by their authorized representatives and agree to be bound thereby as of the first day of the Term.

**THE CORPORATION OF THE TOWN OF PELHAM**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the Corporation.

Date: \_\_\_\_\_

**PELHAM PANTHERS HOCKEY CLUB LIMITED**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the Corporation.

Date: \_\_\_\_\_

**THIS AGREEMENT** made on the \_\_\_\_ day of \_\_\_\_\_, 2023 ("the Agreement").

B E T W E E N:

THE CORPORATION OF THE TOWN OF PELHAM

("the Town")

- and -

PELHAM JUNIOR HOCKEY CLUB

("the Licensee")

**WHEREAS** the Town owns the Meridian Community Centre located at 100 Meridian Way in the Town of Pelham ("the Facility"); and

**WHEREAS** the Licensee is a not-for-profit corporation incorporated pursuant to the laws of Ontario that desires to operate a concession premises and vending machines at the Facility and to obtain a licence from the Town for that purpose; and

**WHEREAS** the Town has agreed to grant a licence to the Licensee on the terms and conditions set out in this Agreement; and

**WHEREAS** the Licensee has properly authorized entering into this Agreement; and

**WHEREAS** By-law No. [XX-2023] was passed by the Council of the Town on [DATE], authorizing the Town to enter into this Agreement;

**NOW THEREFORE, IN CONSIDERATION** of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Town and the Licensee (each "a party" and collectively "the parties") agree as follows:

## **1. TERM**

- 1.1. The Term of this Agreement shall be from September 1, 2023 to August 31, 2026 unless terminated earlier in accordance with the provisions herein.
- 1.2. This Agreement may be renewed or extended, on the same or different terms as contained herein, and subject to the following conditions:

- a. not less than six (6) months and not more than twelve (12) months prior to the end of the Term, the Licensee shall provide written notice to the Town of its desire to renew or extend this Agreement;
- b. the terms and conditions of the renewal or extension of this Agreement shall be mutually agreeable to the Town and the Licensee; and
- c. the renewal or extension of this Agreement shall be approved by Council of the Town.

## **2. GRANT OF LICENCE**

- 2.1. The Town hereby grants to the Licensee a licence to enter and use the Facility during the Term for the purposes of concession and vending machine operations as set out in this Agreement and in accordance with all terms and conditions contained herein.
- 2.2. Nothing in this Agreement shall be deemed, construed or interpreted to grant any easement, title, right or interest in the Facility to the Licensee or to create any partnership, agency or joint venture relationship between the parties.

## **3. CONCESSION AND VENDING MACHINES**

- 3.1. Subject to subsections 3.2 and 3.4, during the Term the Licensee shall have an exclusive licence to operate the concession premises on the lower level of the Facility, which consists of one (1) kitchen/food preparation area and one (1) seating area ("the Concession").
- 3.2. Notwithstanding subsection 3.1, the Town shall have the right to enter the Concession for any purpose whatsoever without prior notice to the Licensee. The Licensee shall not be entitled to any compensation for any inconvenience, nuisance or discomfort occasioned thereby.
- 3.3. Without limiting the generality of subsection 3.2, the Town shall supply all appliances in the Concession and shall inspect them on a monthly basis. The Town shall undertake any necessary maintenance or repairs of the appliances in the Concession at the expense of the Licensee.
- 3.4. The Licensee shall be responsible for routine cleaning of the Concession and shall keep it in a clean and sanitary condition to the satisfaction of the Town and in accordance with public health standards.
- 3.5. The Licensee shall provide minimum hours of operation for the Concession in accordance with subsections 3.6 to 3.8, during which times the Concession shall be open and operational.
- 3.6. From the first (1<sup>st</sup>) day of January to the thirty-first (31<sup>st</sup>) day of December in each year of the Term, the Concession shall be open and operational from 4:00 p.m. to 9:00 p.m. from Monday to Friday.

- 3.7. From the fifteenth (15<sup>th</sup>) day of August to the thirty-first (31<sup>st</sup>) day of May in each year of the Term, the Concession shall be open and operational from 7:00 a.m. to 9:00 p.m. on Saturday and Sunday.
- 3.8. From the first (1<sup>st</sup>) day of June to the fourteenth (14<sup>th</sup>) day of August in each year of the Term, where one (1) or more weekend events are scheduled at the Facility, the Concession shall be open and operational from 7:00 a.m. to 9:00 p.m. on Saturday and Sunday. The Town shall give the Licensee no less than ten (10) days' notice of a weekend event to which this provision applies.
- 3.9. The Licensee may provide additional hours of operation for the Concession at any time during which the Facility is open.
- 3.10. Subject to subsection 3.11, during the Term the Licensee shall have an exclusive licence to supply and operate all vending machines at the Facility.
- 3.11. Notwithstanding subsection 3.10, the Town shall have the right to approve the type(s) of vending machines installed at the Facility and shall further have the right to approve the item(s) stocked in the vending machines.
- 3.12. The Licensee shall have the following responsibilities in relation to operating the Concession and vending machines:
  - a. to provide sufficient staff to maintain the minimum hours of operation of the Concession required by subsections 3.5, 3.6, 3.7 and 3.8;
  - b. to provide sufficient staff to ensure that vending machines are consistently and adequately stocked; and
  - c. to conduct all Concession and vending machine operations in accordance with all applicable public health and fire safety requirements.
- 3.13. Notwithstanding any other provision of this Agreement, the Licensee shall have no licence, right or entitlement whatsoever to supply food or beverage services for events at the Facility other than events of the Licensee as set out herein.

#### **4. FEES PAYABLE BY LICENSEE**

- 4.1. The Licensee shall pay an annual licence fee in the amount of three thousand dollars (\$3,000) for the licences granted under section 3 of this Agreement.
- 4.2. All annual licence fees are payable in advance and in full on or before the first (1<sup>st</sup>) day of September in each year of the Term.

#### **5. INSURANCE AND INDEMNITY**

- 5.1. During the Term, the Licensee shall obtain and maintain in full force and effect one or more policies of commercial general liability insurance with aggregate limits of not less than five million dollars (\$5,000,000) per occurrence. The policy or policies shall include coverage for bodily injury, death and property damage and shall contain cross-liability and severability of interest clauses.

- 5.2. The Licensee's policy or policies of commercial general liability insurance shall name the Town as an additional insured with respect to this Agreement and shall contain an undertaking by the insurer(s) to give thirty (30) days written notice to the Town of any material change to the coverages and/or the expiry or cancellation of the said policy or policies.
- 5.3. The Licensee shall provide the Town with proof of insurance on or before the first (1<sup>st</sup>) day of September in each year of the Term.
- 5.4. Any failure by the Licensee to obtain or provide proof of insurance as required by this Agreement constitutes a default by the Licensee that entitles the Town to terminate this Agreement immediately and without further notice or liability.
- 5.5. The Licensee and the Town shall each indemnify and save harmless the other and its officers, employees, volunteers and agents from and against all losses, claims, actions, demands and liabilities for personal injury or property damage arising as a direct or indirect result of this Agreement, where such claims are caused wholly or in part by the negligence of the Licensee or the Town, as the case may be, or by anyone for whom it is in law responsible.
- 5.6. Notwithstanding subsection 5.5, the Licensee shall use the Facility at its sole risk and the Town shall not be liable for any loss or damage sustained by the Licensee or persons using the Facility pursuant to the licences granted herein, except to the extent that such loss or damage is caused by the negligence of the Town or anyone for whom it is in law responsible.
- 5.7. The Licensee shall give immediate written notice to the Town of any incident, injury or harm to any person using the Facility pursuant to the licences granted herein and shall further give immediate written notice to the Town of any loss, damage or defect at any part of the Facility that comes to the attention of the Licensee.

## **6. DEFAULT AND TERMINATION**

- 6.1. This Agreement is conditional on the Licensee obtaining all necessary permits and approvals to operate at the Facility. A failure by the Licensee to obtain any necessary permits or approvals constitutes a default by the Licensee that entitles the Town to terminate this Agreement immediately and without further notice or liability.
- 6.2. Further, this Agreement is conditional on the Licensee and any person(s) acting on behalf of the Licensee conducting the operations of the Licensee in an appropriate and professional manner that is respectful of the Town and its employees, users of the Facility and members of the public. A failure by the Licensee to maintain an acceptable standard of conduct constitutes a default by the Licensee that entitles the Town to terminate this Agreement immediately and without further notice or liability.

- 6.3. Failure to comply with any of the terms and conditions of this Agreement shall be just cause for its termination. If either of the Licensee or the Town defaults in the performance of any of its obligations under this Agreement, the non-defaulting party shall give written notice of the default and shall provide thirty (30) days to remedy it, failing which the non-defaulting party may terminate this Agreement by written notice.
- 6.4. The Town and the Licensee shall have the option to terminate this Agreement at any time upon giving ninety (90) days' written notice to the other party.
- 6.5. This Agreement may be amended or terminated at any time during the Term by mutual agreement of the parties. Any such agreement shall be made in writing, signed by the parties and appended to this Agreement.
- 6.6. Upon termination of this Agreement by expiry or otherwise, the Licensee shall promptly remove any fixtures, equipment, goods or chattels it has installed or placed at the Concession or the Facility and shall repair any damage resulting from such removal to the satisfaction of the Town. The Licensee shall further peaceably surrender to the Town vacant possession of the Concession and all vending machines at the Facility.

## **7. DISPUTE RESOLUTION**

- 7.1. In the event that a dispute arises as to the interpretation, application or execution of this Agreement, including but not limited to a party's rights or responsibilities or an allegation of default, the party that disputes the other party's position or conduct shall immediately provide written notice of the dispute to the other party.
- 7.2. Where a notice of dispute is received in accordance with subsection 7.1, the parties shall attempt to resolve the dispute through negotiation for a period of thirty (30) days from the date on which the notice is delivered. The parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 7.3. If a dispute cannot be resolved by the parties through negotiation, it shall be arbitrated in accordance with the *Arbitration Act, 1991*, S.O. 1991, c. 17. The decision of the arbitrator shall be final and binding on the parties.
- 7.4. The Licensee and the Town shall each bear their own costs associated with the determination of disputes arising under this Agreement, including but not limited to legal and arbitration costs.

## **8. GENERAL**

- 8.1. This Agreement constitutes the entire agreement between the parties relating to matters set out herein. There are no representations, promises, covenants or other terms relating to the subject matter of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the parties in relation to its subject matter.

- 8.2. The rights and obligations specified in any provision of this Agreement which by their nature would reasonably be interpreted as intended by the parties to survive the termination of this Agreement shall survive such termination.
- 8.3. The invalidity or unenforceability of any particular term of this Agreement shall not limit the validity or enforceability of the remaining terms, each of which is distinct and severable from all other terms of this Agreement.
- 8.4. Waiver by a party of any provision of this Agreement shall not constitute a waiver in any other instance and any such waiver must be made in writing. Any delay or failure on the part of either party to enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver and shall not operate as a bar to that party exercising or enforcing such right, power or remedy at any subsequent time.
- 8.5. This Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- 8.6. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and laws of Canada applicable therein.
- 8.7. All communications required under or contemplated by this Agreement shall be considered to have been sufficiently given if delivered by hand, sent by registered mail or sent by email to the party to which such notice is directed as set forth below:

If to the Licensee:

NAME

ADDRESS

EMAIL

Attention: CONTACT NAME

If to the Town:

The Corporation of the Town of Pelham

P.O. Box 400

20 Pelham Town Square

Fonthill ON L0S 1E0

Attention: Jennifer Stirton, Town Solicitor

[jstirton@pelham.ca](mailto:jstirton@pelham.ca)

or such other address of which either party has notified the other, in writing, and any such notice mailed or delivered shall be deemed sufficient under the terms of this Agreement.

- 8.8. Notices delivered or sent by registered mail are deemed to be effective on the date of receipt. Notices sent by email are deemed to be effective on the day the email is sent or, if sent after 4:00 p.m., on the following day.

- 8.9. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email or facsimile transmission.

**[signature page follows]**

DRAFT

**IN WITNESS WHEREOF** the parties have executed this Agreement by their authorized representatives and agree to be bound thereby as of the first day of the Term.

**THE CORPORATION OF THE TOWN OF PELHAM**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I/We have authority to bind the Corporation.

Date: \_\_\_\_\_

**PELHAM JUNIOR HOCKEY CLUB**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I/We have authority to bind the Corporation.

Date: \_\_\_\_\_



## The Corporation of the Town of Pelham

By-law No. 47-2023

**Being a by-law to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 16th day of August 2023.**

**WHEREAS** section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that, unless otherwise authorized, the powers of Council shall be exercised by by-law;

**AND WHEREAS** it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

**NOW THEREFORE** the Council of the Corporation of the Town of Pelham enacts as Follows:

- 1.** (a) The actions of the Council at its meeting held on the 16th day of August, 2023, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.  
  
(b) The above-mentioned actions shall not include:
  - i. any actions required by-law to be taken by resolution; or
  - ii. any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
- 2.** The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
- 3.** Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.
- 4.** This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 16th day of August, 2023.

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Marvin Junkin, Mayor

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William Tigert, Town Clerk