



The Corporation of the Town of Pelham

By-law No. XX-2024

Being a By-law to establish a system of permits for special events held on public and private property within the Town of Pelham.

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* authorizes a lower-tier municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS section 151 of the *Municipal Act, 2001* authorizes a municipality to provide for a system of licences with respect to a business or any activity, matter or thing for which a by-law may be passed under sections 9 and 11 of the statute;

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 sections 425 and 429 of the *Municipal Act, 2001* authorize a municipality to create offences for the contravention of its by-laws and 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* provides that a municipality may 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 where a municipality is satisfied that a by-law contravention has occurred, it may make an order requiring the person who 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 the Council of the Corporation of the Town of Pelham deems it necessary and desirable to regulate special events in the Town of Pelham and 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 provide for a system of permits for Special Events held on Public Property and Private Property in the Town of Pelham to support and facilitate safe and enjoyable events for residents and the community at large.

2. Definitions

2.1. In this By-law:

"Administrative Penalty" means an Administrative Penalty issued pursuant to Town of Pelham Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023, as amended from time to time.

"Agricultural Operation" means an agricultural operation as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1 ("*Farming and Food Production Protection Act, 1998*").

"AGCO" means the Alcohol and Gaming Commission of Ontario.

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

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

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

"By-law Enforcement Officer" means a by-law enforcement officer of the Town and includes the Director.

"Clerk" means the Clerk of the Town or designate.

"Community Planning and Development" means the Community Planning and Development Department of the Town.

"Council" means the Council of the Town.

"Director" means the Director of Fire and By-law Services of the Town or designate.

"Emergency Response Plan" means a document setting out all first aid services to be provided at a Special Event and providing a written plan to be followed in the event of any emergency including fire, extreme weather, criminal acts, personal injuries and medical incidents, and any other emergency preparedness information the Director may require.

"Enforcement Authority" means the Director, a By-law Enforcement Officer, and any Person appointed or otherwise delegated the authority to administer and enforce this By-law.

"Fees and Charges By-law" means Town of Pelham By-law No. 3728 (2016), as updated or amended from time to time.

"Fire and By-law Services" means the Fire and By-law Services Department of the Town.

"Fireworks" means fireworks regulated by Town of Pelham Fireworks By-law No. 2951 (2008).

"Food Vendor" means a Vendor that offers or provides any food or beverage for consumption.

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

"Hold" means to organize, host, present or operate a Special Event and **"Holding"** and **"Held"** have corresponding meanings.

"Liquor" means spirits, wine and beer or any combination of them and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter.

"Liquor Licence" means a licence or permit issued by the AGCO in accordance with the *Liquor Licence and Control Act, 2019*, S.O. 2019, c. 15, Sched. 22 ("*Liquor Licence Control Act, 2019*") for the purpose of serving Liquor at a Special Event.

"Lottery Licence" means a licence issued by the Town, on behalf of the AGCO, to a charitable or non-profit organization as defined by the AGCO for the purpose of holding a lottery event.

"Motor Vehicle" means a Motor Vehicle as defined in the *Highway Traffic Act*.

"Niagara Region" means the Regional Municipality of Niagara.

"Normal Farm Practice" means a normal farm practice as defined in the *Farming and Food Production Protection Act, 1998*.

"Official Plan" means the Town of Pelham Official Plan, as updated or amended from time to time.

"Order" means an Order issued to a Person under this By-law.

"Owner" means the registered owner of Property.

"Parking Plan" means a document and/or diagram detailing all parking to be provided for a Special Event including but not limited to location, number of parking spaces, designated accessible parking, entrances/exits, emergency access routes, signage and, if a Property other than where the Special Event is Held will be used to provide parking, a letter from the Owner of the Property authorizing such use.

"Person" means an individual, corporation, partnership or association and includes Private Clubs and Service Clubs.

"Private Club" means a member-based, non-commercial organization, whether incorporated or not, that carries on social, cultural, athletic or recreational activities generally available to members and their guests.

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

"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.

“Service Club” means a volunteer-based, non-commercial organization, whether incorporated or not, that is dedicated to the growth and general welfare of its members and the community.

“Special Event” means an organized and time-limited event or function:

- i. with a maximum duration of five (5) continuous calendar days;
- ii. that augments the ordinary business or operations at the Property where it is Held;
- iii. that is open to the public and/or to invitees; and
- iv. that is reasonably expected to have more than two hundred (200) attendees and/or participants over its duration.

Functions that may constitute a Special Event include but are not limited to a fair, exhibition, carnival, bazaar, craft show, auction, concert, film screening, festival, sporting event, temporary agritourism offering, parade, neighbourhood block party, assembly for political, religious or cultural purposes, or other similar event.

“Special Event Host” means the Person, organization or entity that Holds a Special Event.

“Special Event Organizer” means the Person appointed or authorized by the Special Event Host to obtain the Special Event Permit, to obtain a Liquor Licence and/or Lottery Licence if required, and to be the primary contact for the Town in relation to the Special Event.

“Special Event Permit” means a permit issued by the Town pursuant to this By-law to authorize the Holding of a Special Event.

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

“Town Special Event” means a Special Event that is Held by the Town and that is designated by the Clerk as a Town Special Event.

“Traffic Management Plan” means a document and/or map providing a detailed plan for the control and management of traffic associated with the Special Event including the movement of Motor Vehicle, pedestrian and cyclist traffic to, from and within the Special Event.

“Vendor” means a Person that attends or participates in a Special Event for the purposes of practicing, carrying on, conducting or soliciting for any trade, calling, business or occupation.

“Venue Plan” means a diagram or sketch detailing the proposed layout of a Special Event or Extended Special Event including but not limited to the location of the Special Event or Extended Special Event, adjacent street names, parking areas, entrances/exits, emergency access routes, Food Vendor and Vendor location(s), location of all permanent and temporary structures, location of sanitary facilities (temporary or permanent), and location of fire suppression and first aid services.

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

3. General Prohibitions

- 3.1. No Person shall Hold a Special Event or cause or permit a Special Event to be Held on any Private Property or Public Property except in accordance with this By-law and all Applicable Law.
- 3.2. No Person shall Hold more than three (3) Special Events or cause or permit more than three (3) Special Events to be Held on any Private Property or Public Property in a calendar year.

4. By-law Application and Exemptions

- 4.1. This By-law applies to all Special Events Held on Private Property or Public Property in the Town unless otherwise provided for herein.
- 4.2. This By-law does not apply to Town Special Events or to Special Events that are Held in the Town by Niagara Region, the Province of Ontario or the Government of Canada.
- 4.3. This By-law does not apply to events or functions with a duration of more than five (5) continuous calendar days or to any Property at which more than three (3) Special Events will be Held in a calendar year. Such events and functions and such Property uses must be authorized by a temporary zoning by-law or Zoning By-law amendment.
- 4.4. This By-law does not apply to any activity that constitutes a Normal Farm Practice carried on as part of an Agricultural Operation. For the purposes of this By-law, a "Pick Your Own" activity at an agricultural Property is deemed to be a Normal Farm Practice carried on as part of an Agricultural Operation.

5. Special Events Requiring Permit

- 5.1. No Person shall Hold a Special Event that includes or involves any of the following matters or cause or permit such a Special Event to be Held without first obtaining a Special Event Permit:
 - (a) increased Motor Vehicle traffic on any Highway in the Town;
 - (b) traffic control requirements on any Highway or Property;
 - (c) any Highway closure, lane restriction or obstruction;
 - (d) use of Fireworks;
 - (e) operation of loudspeakers or sound amplification equipment;
 - (f) installation or placement of any tent or group of tents with a total area of sixty square metres (60m²) or more;
 - (g) construction or installation of a temporary stage or similar structure that is ten square metres (10m²) or larger and/or is more than one (1) metre high;
 - (h) Food Vendors;
 - (i) Vendors of any goods, merchandise or services;
 - (j) auctions for any goods, merchandise or services;
 - (k) amusement devices and inflatables regulated under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c. 16;
 - (l) rides on a Motor Vehicle of any kind;

- (m) petting zoo or animal rides; and
 - (n) any other matter or activity for which any form of permit or authorization is required under Applicable Law.
- 5.2. Despite section 5.1 and subject to section 5.5, a Special Event Permit is not required for a Special Event that is Held by a Private Club exclusively on a Private Property of which the Private Club or any of its members are the Owner(s), provided that the Special Event complies with all Applicable Law.
 - 5.3. Despite section 5.1 and subject to section 5.5, a Special Event Permit is not required for a Special Event that is Held by a Service Club exclusively on a Private Property of which the Service Club or any of its members are the Owner(s), provided that the Special Event complies with all Applicable Law.
 - 5.4. Despite section 5.1 and subject to section 5.5, a Special Event Permit is not required for a Special Event that is Held solely and exclusively on Private Property and the Town is satisfied that the Special Event is permitted under the Zoning By-law and is part of the normal operations of a business or institution that ordinarily carries on business in the Town.
 - 5.5. In addition to section 5.1 and notwithstanding sections 5.2, 5.3 and 5.4, a Special Event Permit is required for any Special Event that:
 - (a) has the potential to strain emergency services in the Town;
 - (b) has a foreseeable impact on the regular flow of traffic;
 - (c) may adversely affect the community;
 - (d) presents an elevated risk to the health and safety of participants or the general public; or
 - (e) presents an elevated risk to the infrastructure of the Town.
 - 5.6. No Person shall Hold a Special Event for which a Special Event Permit is issued or cause or permit such a Special Event to be Held except in accordance with all terms and conditions of the Special Event Permit and in compliance with all Applicable Law.

6. Administration

- 6.1. This By-law shall be administered by the Clerk, who shall perform all administrative functions conferred under this By-law and without limitation may:
 - (a) determine if a proposed event is a Special Event that requires a Special Event Permit and advise the proponent accordingly;
 - (b) receive all applications for Special Event Permits;
 - (c) process all applications for Special Event Permits within thirty (30) days of receipt;
 - (d) require investigations to assess compliance with this By-law;
 - (e) confer and consult with other Town departments as required to assess compliance with this By-law;
 - (f) issue Special Event Permits in accordance with this By-law;
 - (g) impose terms and/or conditions on any Special Event Permit;

and

- (h) refuse, suspend or revoke a Special Event Permit where any requirement of this By-law or any term or condition imposed on a Special Event Permit is contravened.

7. Special Event Permit Application

- 7.1. An application for a Special Event Permit shall be made in writing by the Special Event Organizer in the form determined by the Clerk from time to time and shall be submitted not less than forty-five (45) calendar days prior to the commencement of the Special Event.
- 7.2. No application fee is payable to apply for a Special Event Permit. However, where the Special Event requires any other form of permit or authorization from the Town, application fees are payable in accordance with the Fees and Charges By-law.
- 7.3. An application under section 7.1 shall contain the following:
 - (a) the name and contact particulars of the Special Event Host including address, telephone number and email address;
 - (b) the name, telephone number and email address of the Special Event Organizer;
 - (c) the location of the Special Event, including the address of the Property where the Special Event will be Held;
 - (d) if the Special Event Host does not own the Property where the Special Event will be Held:
 - i. the name, address, telephone number and email address of the registered Owner(s) the Property; and
 - ii. written approval of the Special Event Permit application by the registered Owner(s) of the Property;
 - (e) the date(s) and time(s) of the Special Event;
 - (f) a description of the Special Event including but not limited to its nature and purpose, the activities and services to be offered, and the anticipated number of participants or attendees;
 - (g) a Venue Plan;
 - (h) a list of Vendors participating in the Special Event;
 - (i) proof of general liability insurance with limits of not less than five million dollars (\$5,000,000) per occurrence for a Special Event that includes or involves:
 - i. Food Vendors;
 - ii. the sale or service of Liquor;
 - iii. Fireworks; or
 - iv. games or sports that present an elevated safety risk such as axe throwing, archery, rock climbing and other similar activities; and
 - (j) proof of general liability insurance with limits of not less than three million dollars (\$3,000,000) per occurrence for a Special Event that does not include or involve any of the matters set out in paragraph (i).

- 7.4. In addition to the requirements of section 7.3, where a Special Event requires approval from any agency or authority other than the Town, including but not limited to the AGCO, Niagara Region and/or Niagara Region Public Health, the Special Event Organizer shall secure all such approvals and append them to the application.
- 7.5. Upon receipt of an application for a Special Event Permit, the Clerk shall review it for completeness and may require the Special Event Organizer to provide such additional information and/or documents as the Clerk determines are reasonably necessary to complete the application.
- 7.6. Without limiting the generality of section 7.5, the Clerk may require the Special Event Organizer to provide the following:
- (a) Emergency Response Plan;
 - (b) Parking Plan;
 - (c) Traffic Management Plan;
 - (d) for a Special Event that is Held in whole or in part on Public Property, a site remediation plan to restore the Public Property to its prior condition;
 - (e) Liquor Licence;
 - (f) Lottery Licence;
 - (g) licence(s) held by any Vendor(s);
 - (h) permit(s) issued under Town of Pelham Fireworks By-law No. 2951 (2008);
 - (i) permit(s) issued under Town of Pelham Open Air Burning By-law #4223(2020);
 - (j) permit(s) issued under Town of Pelham Sign By-law No. 48-2023;
 - (k) permit(s) issued under the *Building Code Act* and the *Building Code* for the installation of temporary event tents; and/or
 - (l) temporary exemption(s) from Town of Pelham Noise Control By-law No. 4454(2022) issued thereunder.
- 7.7. Upon receipt of a complete Special Event Permit application, the Clerk shall circulate it to Community Planning and Development, Fire and By-law Services and any other required Town department for comment. The Clerk shall also provide the application to any other agency or authority impacted by the Special Event for review and comment.
- 7.8. Where necessary to complete or process a Special Event Permit application, the Clerk may require the Special Event Organizer to meet with Town staff. The Clerk may also require inspections by Community Planning and Development, Fire and By-law Services and/or Niagara Region Public Health.

8. Special Event Permit Issuance

- 8.1. Upon completion of the application process set out in section 7, the Clerk shall issue a Special Event Permit where the Clerk is satisfied that:

- (a) the Special Event conforms to the requirements of the Official Plan and Zoning By-law;
 - (b) the Special Event is compatible with surrounding land uses;
 - (c) any additional approvals, permits or authorizations required under Applicable Law have been obtained;
 - (d) subject to paragraph (e), the Town departments and any other agency or authority to which the application was circulated have no objection to the Special Event;
 - (e) where the objection of a Town department or other agency or authority is resolved by imposing additional requirements for the Special Event, that all such requirements have been or will be met; and
 - (f) the Special Event is beneficial to the community, residents and/or businesses in the Town.
- 8.2. Notwithstanding section 8.1, the Clerk may impose such terms and conditions on a Special Event Permit as the Clerk considers to be appropriate in the circumstances.
- 8.3. Any breach of the terms or conditions of a Special Event Permit by any Person shall render the Special Event Permit null and void.
- 8.4. Where the Clerk issues a Special Event Permit, it shall set out the date and time at which it expires, which shall be not more than twenty-four (24) hours after the end of the Special Event unless the Special Event Host satisfies the Clerk that more than twenty-four (24) hours is necessary to restore the Property on which the Special Event is Held, in which case the Special Event Permit may expire up to forty-eight (48) hours after the end of the Special Event.
- 8.5. Where the Clerk refuses to issue a Special Event Permit, the Clerk shall provide written reasons for the refusal. The decision of the Clerk to refuse a Special Event Permit is final.

9. Enforcement

- 9.1. This By-law shall be administered and enforced by the Town 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. An Enforcement Authority may, at all reasonable times, enter and inspect any Property to determine if this By-law is being complied with and may, for the purposes of such an inspection, require the production of documents and/or require information from a Person concerning a matter related to the inspection.
- 9.4. An Enforcement Authority who is satisfied that a contravention of this By-law has occurred may make an Order requiring the Person who contravened the By-law, the Person who caused or permitted the contravention and/or the Owner of the Property where the contravention occurred to discontinue the contravening activity.

9.5. No Person shall obstruct or hinder, or attempt to obstruct or hinder, any Enforcement Authority in the exercise of a power or the performance of a duty under this By-law.

10. Penalty

10.1. Every Person who contravenes any provision of this By-law or an Order made under section 9.4 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.33*.

10.2. Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023 applies to each administrative 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 for Non-Parking By-laws No. 68-2023, be liable to pay to the Town an administrative penalty in accordance with that By-law.

11. General

11.1. The short title of this By-law is the "Special Event Permit By-law".

11.2. If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.

11.3. If there is a conflict between a provision of this By-law and a provision of any other By-law of the Town, the provision that establishes the higher standard shall prevail.

11.4. This By-law shall be read with all changes in number or gender as are required by context.

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

11.6. The Town Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

12. Enactment

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

Marvin Junkin, Mayor

Sarah Leach, Acting Town Clerk