



The Corporation of the Town of Pelham

By-law No. 19-2025

Being a By-law to prohibit and regulate public nuisances and outdoor illumination in the Town of Pelham and to repeal By-law Nos. 3424(2013) and 4253(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* authorizes a 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 128 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS section 129 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to outdoor illumination;

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 a municipality, if satisfied that a contravention of a by-law of the municipality has occurred, may make an order requiring the person who contravened the by-law or 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 section 445 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law of the municipality has occurred, may make an order requiring the person who contravened the by-law or who 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 if a municipality has authority to direct or require a person to do a matter or thing, it may also provide that, in default of it being done by the person directed or required to do it, the matter of

thing shall be done at the person's expense;

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 public nuisances and outdoor illumination in the Town 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 prohibit and regulate with respect to public nuisances and outdoor illumination that is or may become a nuisance so as to promote the well-being of the municipality and its inhabitants.

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.

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

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

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

"Council" means the Council of the Town.

"Direct Light" means light emitted directly from a Luminaire.

"Enforcement Authority" means a By-law Enforcement Officer, a member of the Niagara Regional Police Service or Ontario Provincial Police, and any Person appointed or otherwise delegated the authority to administer and enforce this By-law.

"Exterior Luminaire" means a Luminaire that is situated outside of any building or structure, including those affixed to exterior walls or surfaces of any building or structure and/or to posts appurtenant to any building or structure.

"Fight" means a confrontation between two or more Persons that involves forceful physical contact.

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

"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.

"Luminaire" means a complete lighting device that consists of one or more light-producing components and parts designed to distribute the light.

"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*, S.O. 1998, c. 1.

“Nuisance” means anything that is injurious to health, offensive to the senses, or an obstruction to the free use of Property so as to interfere with the comfortable enjoyment of life or Property and, without limiting the generality of the foregoing, includes any of the matters listed in section 4.1 of this By-law.

“Nuisance Light” means Direct Light emitted by an Exterior Luminaire positioned in such a manner that the Direct Light is easily perceptible at a Property other than the Property on which the Luminaire is situated and is of such a type or quantity that it constitutes a Nuisance to the public or to any Person residing, carrying on business, or operating a motor vehicle, in the vicinity.

“Nuisance Party” means a gathering of Persons on any Private Property or Public Property which, by reason of the conduct of the Persons in attendance, results in the occurrence of any of the deemed Nuisances in section 4.1 of this By-law.

“Order” means any notice of non-compliance issued under this By-law.

“Owner” means the registered owner of Property.

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

“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 Place” means any Public Property at which the public is ordinarily invited or permitted access, and any Private Property that is visible from Public Property or from any other Private Property.

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

“Skateboard” means a device that is driven or propelled by muscular power or gravity and consists of a platform with two or more wheels attached to the bottom side and includes non-motorized devices commonly described as scooters, which consist of a wheeled platform and handlebar structure.

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

3. General Prohibitions

3.1. No Person shall cause or permit a Nuisance.

3.2. No Person shall create, host, cause or permit a Nuisance Party at any Private Property or on Public Property.

3.3. No Person shall attend a Nuisance Party.

3.4. No Person shall use or operate, or cause or permit the use or operation of, any Exterior Luminaire in a manner that creates or results in Nuisance Light.

4. Prohibited Nuisances

4.1. Without limiting the generality of section 2.1 of this By-law, each of the following acts, conduct or things at any Public Place is deemed to be a Nuisance:

- (a) loitering in, remaining at, or refusing to leave any Public Place after a request from an Enforcement Authority to leave;

- (b) remaining at or refusing to leave any Public Place after it is closed;
- (c) using profane or abusive language or gestures;
- (d) aggressive or threatening conduct toward any Person;
- (e) engaging in or encouraging any Fight;
- (f) spitting;
- (g) vomiting, urinating, or defecating anywhere other than a restroom facility without reasonable excuse;
- (h) throwing, dropping, placing or depositing any garbage, refuse, debris or other item or object on the ground or any place other than a designated receptacle for the said item or object;
- (i) defacing, damaging or vandalizing Public Property or Private Property;
- (j) obstructing, interfering with or otherwise impeding pedestrian traffic or vehicular traffic;
- (k) using a Skateboard except as permitted under this By-law;
- (l) conducting or soliciting for any trade, calling, business or occupation except as permitted under Town of Pelham By-law No. 09-2025;
- (m) discharging fireworks except as permitted under Town of Pelham By-law No. 2951(2008);
- (n) open air burning except as permitted under Town of Pelham By-law No. 4223(2020);
- (o) making, causing or permitting noise that contravenes Town of Pelham By-law No. 4454(2022);
- (p) carrying open Liquor or consuming Liquor on Public Property except where permitted under Applicable Law;
- (q) public intoxication or public drunkenness;
- (r) the unlawful sale, provision or distribution of Liquor or other intoxicating substance;
- (s) obstructing an Enforcement Authority in the course of their duties;
- (t) knocking over or removing, or attempting to knock over or remove, any Canada Post mailbox or relay box, newspaper box, recycling container, garbage container, temporary restroom facility, traffic sign, street sign, utility pole, or any other similar item;
- (u) entry upon or use of the roof of any building or structure not intended for such occupancy; and
- (v) any other activity, conduct or thing that is disorderly or obnoxious.

4.2. For the purposes of paragraph 4.1(g), reasonable excuse means:

- (a) the contravention of paragraph 4.1(g) must be inevitable, unavoidable, and afford no reason or opportunity for an alternative course of action that does not contravene this By-law; or
- (b) if the contravention of paragraph 4.1(g) is the consequence of illness, the Person did not contemplate, or could not have reasonably contemplated, that their actions would likely cause illness or give rise to a contravention of this By-law.

4.3. For the purposes of paragraph 4.1(k), using a Skateboard on Public Property for recreational purposes is permitted only at facilities or locations specifically designed and constructed to support recreational Skateboard use and that are identified as such by signage posted by the Town. Recreational Skateboard use on any other Public Property is prohibited.

4.4. For the purposes of paragraph 4.1(k), using a Skateboard on Highways for

transportation purposes is permitted as follows:

- (a) the Skateboard shall be used on the sidewalk where one exists;
- (b) if there is no sidewalk, the Skateboard shall be used in a bicycle lane where one exists;
- (c) if there is no sidewalk or bicycle lane, the Skateboard shall be used on the paved shoulder of the Highway where one exists;
- (d) if there is no sidewalk, bicycle lane, or paved shoulder, the Skateboard may be used on the travelled portion of the Highway;
- (e) the Skateboard shall not be used in a manner that causes damage to any Public Property or Private Property;
- (f) the Skateboard user shall travel in a manner and at a speed appropriate to the surface on which the Skateboard is being used;
- (g) the Skateboard user shall travel in a straight line as close to the right side of the sidewalk, bicycle lane, paved shoulder, or travelled portion of the Highway as is practicable;
- (h) the Skateboard user shall yield the right-of-way to pedestrians at all times and, when using a bicycle lane, to cyclists;
- (i) the Skateboard user shall comply with all traffic control signals and signs; and
- (j) the Skateboard user shall exercise reasonable care for their own safety and the safety of all other users of the Highway.

4.5. Where Skateboard use is permitted under this By-law, users must at all times wear a helmet approved by the Canadian Standards Association (CSA), with the chin strap securely fastened, and such other protective equipment as may be required to afford reasonable protection to the Skateboard user.

5. By-law Application and Exemptions

5.1. This By-law does not apply to:

- (a) any conduct, activity or thing that constitutes a Normal Farm Practice carried on as part of an Agricultural Operation;
- (b) odour produced or emitted by a commercial or industrial facility that is subject to Town of Pelham By-law No. 81-2024;
- (c) light emitted by Exterior Luminaires that are required by, and positioned in accordance with, Applicable Law;
- (d) light emitted by Exterior Luminaires that provide security lighting at a construction site or non-residential Property;
- (e) the activities or operations of the Town and Niagara Region or their contractors; or
- (f) the operations of any emergency service provider.

6. Enforcement

6.1. This By-law shall be administered and enforced by the Town and Enforcement Authorities.

6.2. 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*.

6.3. 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 or information from a Person concerning a matter related to the inspection.

- 6.4. 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.
- 6.5. 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.

7. Penalty

- 7.1. Every Person who contravenes any provision of this By-law or an Order made under section 6.4 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*.
- 7.2. Administrative Penalty Process By-law for Non-Parking By-laws No. 68-2023 applies to each Administrative Penalty issued pursuant to this By-law.
- 7.3. 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.

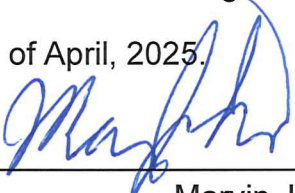
8. General

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

9. Repeal and Enactment

- 9.1. By-law Nos. 3424(2013) and 4253(2020) are hereby repealed and replaced.
- 9.2. This By-law shall come into force on the date it is signed.

Read, enacted, signed and sealed this 16th day of April, 2025.


Marvin Junkin, Mayor


Sarah Leach, Acting Town Clerk