



The Corporation of the Town of Pelham

By-law No. 47-2026

Being a By-law to implement a system of administrative penalties for contraventions of the Fire Code.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 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 it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 7.1 of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 ("*FPPA*") authorizes a municipality to pass by-laws regulating fire prevention;

AND WHEREAS section 30.2 of the *FPPA* and Ontario Regulation 260/25 authorize the Fire Chief and of a municipality and certain members of a municipal Fire Department to impose administrative penalties for the purpose of promoting compliance with prescribed provisions of the *FPPA* and the Fire Code, being Ontario Regulation 213/07 ("the Fire Code");

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable to utilize administrative penalties to promote compliance with the *FPPA* and the Fire Code 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 implement an administrative penalty system for certain fire safety contraventions in order to promote compliance with the requirements of the *FPPA* and the Fire Code.

2. Definitions

- 2.1. In this By-law:

"Administrative Penalty" means an Administrative Penalty imposed in accordance with the *FPPA*, Ontario Regulation 260/25, and this By-law.

"Assistant to the Fire Marshal" means a member of the Town of Pelham Fire Services Department that has been designated by the Fire Marshal as an assistant to the Fire Marshal under section 11 of the *FPPA*.

"Fire Chief" means the Fire Chief of the Town of Pelham Fire Services Department.

"Fire Code" means Ontario Regulation 213/07 made under the *FPPA*.

"Fire Prevention Officer" means a member of the Town of Pelham Fire Services Department fire prevention bureau.

"FPPA" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4.

"Hearing Officer" means a Person appointed by the Town to review Penalty Orders and decisions of the Screening Officer. The Hearing Officers appointed by the Town are listed in Schedule "A", as updated or amended from time to time, which is attached hereto and forms part of this By-law.

“Penalty Order” means a written order imposing an Administrative Penalty on a Person in accordance with the *FPPA*, Ontario Regulation 260/25, and this By-law.

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

“Prescribed Provision” means a provision of the *FPPA* or the Fire Code prescribed by section 3 and Schedule 1 of the Ontario Regulation 260/25 as being subject to an Administrative Penalty.

“Screening Officer” means Person appointed by the Town to review Penalty Orders. The Screening Officers appointed by the Town are listed in Schedule “A”, as updated or amended from time to time, which is attached hereto and forms part of this By-law.

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

3. Penalty Orders

- 3.1. Where the Fire Chief, a Fire Prevention Officer, or an Assistant to the Fire Marshal is satisfied that a Person is contravening or not complying with a Prescribed Provision, the Fire Chief, Fire Prevention Officer, or Assistant to the Fire Marshal may issue a Penalty Order to that Person.
- 3.2. The first time a Penalty Order is issued to a Person for contravention of a Prescribed Provision, the amount of the Administrative Penalty is two hundred dollars (\$200.00).
- 3.3. The second time a Penalty Order is issued to a Person for contravention of the same Prescribed Provision, the amount of the Administrative Penalty is four hundred dollars (\$400.00).
- 3.4. The third or subsequent time a Penalty Order is issued to a Person for contravention of the same Prescribed Provision, the amount of the Administrative Penalty is six hundred dollars (\$600.00).
- 3.5. For the purposes of subsections 3.2, 3.3 and 3.4 of this By-law, a Penalty Order for the contravention of a Prescribed Provision is considered a second, third, or subsequent Penalty Order in respect of the same Prescribed Provision if it is issued within three (3) years after the first Penalty Order was issued.
- 3.6. Every Penalty Order shall include the following information:
 - i. particulars of the contravention of the Prescribed Provision;
 - ii. the date and time by which the Administrative Penalty must be paid;
 - iii. the amount of the Administrative Penalty and how payment may be made; and
 - iv. the right to request a review of the Penalty Order.
- 3.7. There is no right to be heard before a Penalty Order is made.
- 3.8. The Penalty Order shall be served on the Person who is subject to it by way of personal service, regular letter mail, or electronic transmission via email and is deemed to be received by the Person as follows:
 - i. for service by regular letter mail, on the fifth day after mailing, unless the Person establishes that the Person did not, acting in good faith, through absence, accident, illness or other cause beyond the Person’s control, receive a copy until a later date; and

ii. for service by email, on the day after it is sent or, if that day is a weekend or statutory holiday, on the next day that is not a weekend or statutory holiday, unless the Person establishes that the Person did not, acting in good faith, through absence, accident, illness or other cause beyond the Person's control, receive a copy until a later date.

3.9. Subject to subsection 4.3 of this By-law, a Person who is subject to a Penalty Order shall pay the Administrative Penalty within thirty (30) days after the Penalty Order is served.

4. Review by Screening Officer

4.1. A Person who is subject to a Penalty Order may, within thirty (30) days after the Penalty Order was served, submit a written request to the Town for a review of the Penalty Order by a Screening Officer.

4.2. If the Screening Officer considers it fair and appropriate in the circumstances, they may extend the thirty (30) day period to submit a request for review, and this extension may be made even after the thirty (30) day period has expired.

4.3. The submission of a request for review by a Screening Officer operates as a stay of the Penalty Order until the matter is finally disposed of, including any review by a Hearing Officer under section 5 of this By-law.

4.4. The Screening Officer shall determine whether the review will be conducted orally, electronically or in writing and shall ensure that the Town informs the Person that requested the review of the determination.

4.5. If the Screening Officer sets a date and time for the Person that requested the review to make submissions, the Town shall notify the Person of the date and time set by the Screening Officer at least five (5) days in advance, and the Person shall attend at set date and time. If the Person fails to attend, they shall be deemed to have abandoned the request for review.

4.6. The Screening Officer may affirm or rescind a Penalty Order or may amend the Penalty Order to reduce the amount of the Administrative Penalty where the Screening Officer finds that the Administrative Penalty is excessive in the circumstances or is, by its magnitude, punitive in nature, having regard to all the circumstances.

4.7. The Screening Officer does not have jurisdiction to consider questions relating to the validity of a statute or regulation or the constitutional applicability or operability of any statute or regulation.

4.8. The Screening Officer shall not decide whether to affirm or rescind a Penalty Order or amend it to reduce the amount of the Administrative Penalty unless the Person that requested the review has been given an opportunity to make submissions in the same manner in which the review is to be conducted.

4.9. In deciding whether to affirm or rescind a Penalty Order or amend it to reduce the amount of the Administrative Penalty, the Screening Officer shall determine whether it was reasonable for the Fire Chief, Fire Prevention Officer, or Assistant to the Fire Marshal to impose the Penalty Order.

4.10. In making a determination under subsection 4.9 of this By-law, the Screening Officer may consider the following information:

- i. photographs, drawings or other images;

- ii. statements made by the Fire Chief, Fire Prevention Officer, or Assistant to the Fire Marshal that imposed the Penalty Order;
 - iii. documents;
 - iv. statements by the Person who requested the review, made in writing or in the manner in which the review is conducted;
 - v. statements by or on behalf of the Town, made in writing or in the manner in which the review is conducted; and
 - vi. any other information, materials or submissions that the Screening Officer considers to be credible or trustworthy in the circumstances.
- 4.11. Notwithstanding subsection 4.10 of this By-law, no witnesses shall be called in the review.
- 4.12. The Screening Officer shall make a decision as soon as practical after the review is complete and shall send a copy of the decision, by regular mail or email, to the Person that requested the review and to the Town, as soon as practical after the decision is made.
- 4.13. Where a Penalty Order is not rescinded by the Screening Officer, the Person who is subject to the Penalty Order shall pay the Administrative Penalty within thirty (30) days after the date of the Screening Officer's decision, unless the Person requests a review by a Hearing Officer under section 5 of this By-law.

4.14. Despite subsection 4.13 of this By-law, if the Screening Officer considers it fair and appropriate in the circumstances, they may approve a plan of periodic payments that extends beyond the thirty (30) day period for payment, and this extension may be made even after the thirty (30) day period has expired.

5. Review by Hearing Officer

5.1. A Person who requested a review by a Screening Officer may, within thirty (30) days after the date of the Screening Officer's decision, submit a written request to the Town for a review of the decision by a Hearing Officer.

5.2. If the Hearing Officer considers it fair and appropriate in the circumstances, they may extend the thirty (30) day period to submit a request for review, and this extension may be made even after the thirty (30) day period has expired.

5.3. The submission of a request for review by a Hearing Officer operates as a stay of the Penalty Order until the matter is finally disposed of by the Hearing Officer.

5.4. The Hearing Officer shall determine whether the review will be conducted orally, electronically or in writing and shall ensure that the Town informs the Person that requested the review of the determination.

5.5. If the Hearing Officer sets a date and time for the Person that requested the review to make submissions, the Town shall notify the Person of the date and time set by the Hearing Officer at least five (5) days in advance, and the Person shall attend at set date and time. If the Person fails to attend, they shall be deemed to have abandoned the request for review.

5.6. The Hearing Officer may affirm or rescind a Penalty Order or may amend the Penalty Order to reduce the amount of the Administrative Penalty where the Hearing Officer finds that the Administrative Penalty is

excessive in the circumstances or is, by its magnitude, punitive in nature, having regard to all the circumstances.

- 5.7. The Hearing Officer does not have jurisdiction to consider questions relating to the validity of a statute or regulation or the constitutional applicability or operability of any statute or regulation.

- 5.8. The Hearing Officer shall not decide whether to affirm or rescind a Penalty Order or amend it to reduce the amount of the Administrative Penalty unless:

- i. the Person that requested the review has been given an opportunity to make submissions in the same manner in which the review is to be conducted; and
- ii. a representative of the Town has been given an opportunity to make submissions in the same manner in which the review is to be conducted.

- 5.9. In deciding whether to affirm or rescind a Penalty Order or amend it to reduce the amount of the Administrative Penalty, the Hearing Officer shall determine whether the decision of the Screening Officer was reasonable.

- 5.10. In making a determination under subsection 5.9 of this By-law, the Hearing Officer may consider the following information:

- i. photographs, drawings or other images;
- ii. statements made by the Fire Chief, Fire Prevention Officer, or Assistant to the Fire Marshal that imposed the Penalty Order;
- iii. documents;
- iv. statements by the Person who requested the review, made in writing or in the manner in which the review is conducted;
- v. statements by or on behalf of the Town, made in writing or in the manner in which the review is conducted; and
- vi. any other information, materials or submissions that the Hearing Officer considers to be credible or trustworthy in the circumstances.

- 5.11. Notwithstanding subsection 5.10 of this By-law, no witnesses shall be called in the review.

- 5.12. The Hearing Officer shall make a decision as soon as practical after the review is complete and shall send a copy of the decision, by regular mail or email, to the Person that requested the review and to the Town, as soon as practical after the decision is made.

- 5.13. The decision of the Hearing Officer is final.

- 5.14. Where a Penalty Order is not rescinded by the Hearing Officer, the Person who is subject to the Penalty Order shall pay the Administrative Penalty within thirty (30) days after the date of the Hearing Officer's decision.

- 5.15. Despite subsection 5.14 of this By-law, if the Hearing Officer considers it fair and appropriate in the circumstances, they may approve a plan of periodic payments that extends beyond the thirty (30) day period for payment, and this extension may be made even after the thirty (30) day period has expired.

6. Undue Hardship

- 6.1. The Town may excuse a Person from paying all or part of an Administrative Penalty, including those affirmed or amended by the Screening Officer or the Hearing Officer, where the Town determines that requiring the Person to pay the Administrative Penalty would cause undue hardship for the Person.
- 6.2. A Person who wishes to have all or part of an Administrative Penalty payment excused due to undue hardship shall, at least five (5) days before the date by which the Administrative Penalty must be paid, submit a written application to the Clerk of the Town in accordance with subsection 6.3 of this By-law.
- 6.3. An application to have all or part of an Administrative Penalty excused due to undue hardship shall contain the following information:
 - i. the amount sought to be excused;
 - ii. why payment of the amount sought to be excused would cause undue hardship for the Person;
 - iii. a summary of the Person's annual or monthly income and expenses; and
 - iv. any other information the Person believes is relevant to the application.
- 6.4. Within thirty (30) days after an application is made under subsection 6.3, the Clerk of the Town shall review the application and determine if requiring the Person to pay the amount of the Administrative Penalty sought to be excused would cause undue hardship to the Person.
- 6.5. The Clerk of the Town shall notify the Person in writing of their decision.
- 6.6. The decision of the Clerk of the Town is final.
- 6.7. If the Clerk of the Town determines that all or part of an Administrative Penalty should not be excused and remains payable, the Person shall pay the required Administrative Penalty amount within fifteen (15) days after the date of the Clerk's decision.

7. Enforcement

- 7.1. If a Penalty Order is issued and the Administrative Penalty is not paid by the applicable deadline, the Penalty Order imposing the Administrative Penalty, or the decision of the Screening Officer, the Hearing Officer, or the Clerk of the Town, as the case may be, may be filed in the Superior Court of Justice and enforced as if it were an order of that court.

- 7.2. If a Penalty Order is issued to a Person that owns lands or premises in the Town and the Administrative Penalty is not paid within fifteen (15) days after the applicable deadline, the Treasurer of the Town may add the Administrative Penalty to the tax roll for any property in the Town for which all of the owners are responsible for paying the Administrative Penalty and collect it in the same manner as municipal taxes.

8. General

- 8.1. The short title of this By-law is the "Fire Code Administrative Penalty 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 establishing the higher standard shall prevail.

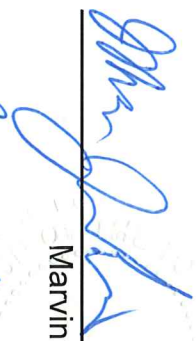
8.4. Any reference to legislation in this By-law, including but not limited to the *FPFA*, Ontario Regulation 260/25 and the Fire Code, includes the legislation and any amendment, replacement, subsequent enactment or consolidation of same.

8.5. The Town Clerk is hereby authorized to effect such minor modifications or corrections of an administrative, clerical, numerical, grammatical, semantical or descriptive nature to this By-law as may be determined to be necessary.

9. Enactment

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

Read, enacted, signed and sealed this 16th day of September, 2026.



Marvin Junkin, Mayor



Holly Willford, Town Clerk