



City of  
**Peterborough**

---

**To:** **Members of the General Committee**

**From:** **Cynthia Fletcher, Commissioner  
Infrastructure and Planning Services**  
**Richard Freymond, Commissioner  
Corporate and Legislative Services**

**Meeting Date:** **October 5, 2020**

**Subject:** **Report CLSOCS20-003  
Parking Administrative Monetary Penalty System**

---

## **Purpose**

A report to recommend by-laws to establish a parking administrative monetary penalty (AMP) system.

## **Recommendations**

That Council approve the recommendations outlined in Report CLSOCS20-003, dated October 5, 2020, of the Commissioner of Infrastructure and Planning Services and the Commissioner of Corporate and Legislative Services, as follows:

- a) That Council pass by-laws in the forms comprising Appendices A to E, inclusive, to Report CLSOCS20-003 as follows:
  - i) Appendix A, Administrative Penalty System By-law;
  - ii) Appendix B, Hearing Officer By-law;
  - iii) Appendix C, Enforcement By-law;
  - iv) Appendix D, By-law to amend User Fees By-law; and
  - v) Appendix E, By-law to amend Parking By-law;
- b) That the CAO report back to Council recommending one or more candidates for appointment as Hearing Officers;
- c) That each Hearing Officer be compensated on an as-needed basis at the rate of:

- i) \$350 for hearings, individually or collectively, exceeding 3.5 hours on any day; and
- ii) \$275 for hearings, individually or collectively, not exceeding 3.5 hours on any day; and
- d) That the Mayor and Clerk be authorized to execute inter-municipal service agreements with Ontario municipalities on terms acceptable to the CAO in consultation with the Commissioner of Infrastructure and Planning Services and the Commissioner of Corporate and Legislative Services and in forms acceptable to the City Solicitor pursuant to which the City of Peterborough may administer those municipalities' administrative monetary penalty systems.

## Budget and Financial Implications

The proposed parking AMP system will be implemented with current staff resources and within existing budgets for technology requirements.

It is proposed that Hearing Officers would be remunerated on an as-needed basis at \$350 for any day of hearings exceeding 3.5 hours and at \$275 for any day of hearings not exceeding 3.5 hours. Generally, a parking AMP appeal will be determined on the first appearance before the Hearing Officer. An average of one day of hearings per month is anticipated for parking AMP appeals.

The proposed Hearing Officer remuneration rates are comparable to those established by other municipalities. By contrast, presently for **Provincial Offences Act** (POA) parking prosecutions, the cost for a Justice of the Peace of the Ontario Court of Justice is \$300 per hour. Further, a POA parking prosecution may include several Court appearances before the matter is determined. Accordingly, a municipal AMP system is a more cost effective and efficient alternative than traditional POA prosecutions.

It is proposed that Hearing Officer remuneration be recorded in Court Services Account 570005, "Contractual Services".

The proposed parking AMP system includes proposed administrative fees which are overviewed in the section below entitled "Standards for the Administration of an AMP System" and are set out in Appendix D.

Recommendation d) contemplates inter-municipal service agreements for which the City would be compensated for other municipalities' use of the City's AMP system.

## Background

### Statutory Authority and Rationale for Administrative Monetary Penalty (AMP) Systems

Traditional enforcement of municipal by-laws includes proceedings in the Ontario Court of Justice pursuant to the POA and proceedings in the Superior Court of Justice seeking injunctive and other relief.

Municipalities' enforcement of their by-laws has been challenged in several ways:

- Superior Court proceedings consume significant resources and, generally, are reserved for the most egregious of contraventions.
- POA prosecutions similarly consume significant resources requiring the services of a lawyer or a licensed paralegal as a prosecutor who is required to prove beyond a reasonable doubt each element of an offence in a quasi-criminal proceeding before a Justice of the Peace or a judge of the Ontario Court of Justice, sometimes requiring several appearances before these judicial officers before the prosecutions are determined.
- POA prosecutions can be hampered by the lack of judicial and other resources in the Ontario Court of Justice sometimes resulting in significant delays. Delay in prosecutions hinders their effectiveness as a means of encouraging compliance and, if the delay is significant, can compromise their outcome.

On January 1, 2007, Bill 130, the **Municipal Statute Law Amendment Act, 2006**, further amended the **Municipal Act, 2001** including in relation to licensing and enforcement. One of the changes was to specifically permit systems of AMPs for licensing by-laws and for parking by-laws. Section 102.1 of the **Municipal Act, 2001** authorizes a municipality to establish a system of parking AMPs, subject to Ontario Regulation 333/07 (Parking Regulation). The Parking Regulation prescribes minimum requirements for a system of municipal parking AMPs. Since January 1, 2007, several Ontario municipalities have implemented AMP systems.

In its August, 2011 report, **Modernization of the Provincial Offences Act** (<https://www.lco-cdo.org/wp-content/uploads/2011/10/POA-Final-Report.pdf>), the Law Commission of Ontario (LCO) considered how AMP systems may contribute to a more effective and efficient use of court resources:

“Given the volume of minor Part I and II [parking] offences heard by the Ontario Court of Justice, the cost of administering POA courts, and the increasing use of AMP systems in Canada and elsewhere, one must ask whether Ontario’s POA regime should rely more heavily on AMPs as an alternative to the court process. Another key consideration is whether respect for our judicial system is promoted when court resources are used to hear very minor offences.”

One of LCO’s recommendations was that Part II of the POA (parking prosecutions) be repealed and that municipalities be compelled to establish parking AMP systems. LCO’s report was submitted to the Ministry of the Attorney General. While Part II of the POA has, to date, not been repealed, the LCO report’s analysis and its recommendation underscore the importance of parking AMP systems in particular as an appropriate alternative to POA prosecutions.

On May 30, 2017, Bill 68, **Modernizing Ontario's Municipal Legislation Act, 2016** received Royal Assent. Among its amendments was the addition of a new section 434.1 to the **Municipal Act, 2001** expressly authorizing municipalities to establish AMP systems for failure to comply with any **Municipal Act, 2001** by-law.

On December 14, 2017, Bill 177, **Stronger, Fairer Ontario Act (Budget Measures), 2017** received Royal Assent. It included amendments to the **Building Code Act, 1992**

(Building Code Act) to establish AMP systems for the enforcement of property standards by-laws and property standards orders.

The proposed by-laws comprising Appendices A to D to this report will establish a system that enables the use of AMPs as an additional tool to encourage compliance with various City by-laws. Future reports will recommend amendments to specific by-laws to establish AMPs for those by-laws.

The proposed by-law to amend the Parking By-law (Appendix E) would establish parking AMPs to replace POA prosecutions for contraventions of the Parking By-law.

A key feature of the proposed AMP system is that individuals to whom a penalty notice is given will have an opportunity to have the penalty notice reviewed by a Screening Officer and another opportunity to have the Screening Officer's decision reviewed on an appeal to a Hearing Officer, each of whom has the jurisdiction to cancel, vary or extend the time for payment of the penalty notice and any related administrative fees.

The Parking Regulation establishes minimum standards for parking AMP systems. The following sections of this report overview the proposed AMP system in relation to those standards.

### **Monetary Limit**

The Parking Regulation originally imposed a cap of \$100 for a parking AMP but was amended to delete that cap. The Parking Regulation now requires only that a parking AMP not be "punitive" in nature and must not exceed the amount reasonably required to promote compliance with a parking by-law.

The proposed by-law to amend the Parking By-law (Appendix E) establishes each AMP at the same rate as currently established by set fine order for POA prosecutions under the Parking By-law and satisfies the Parking Regulation's requirements respecting monetary limits.

### **Standards for the Administration of an AMP System**

The Parking Regulation requires a municipality to develop standards relating to the administration of a parking AMP system. The following subsections overview certain standards and how they are addressed in the proposed AMP system.

#### **1. Prevention of Political Interference**

The Parking Regulation requires a parking AMP system to include policies and procedures to prevent political interference in the administration of the system. This requirement is consistent with the City's obligations pursuant to an agreement dated September 13, 2000 between the City and the Province respecting the City's administration of the POA Courts. The requirement is also consistent with individual Councillors' obligations under the Council Code of Conduct.

This requirement is addressed in the Hearing Officer By-law (Appendix B) and the Enforcement By-law (Appendix C) as more specifically summarized under those headings below.

## **2. Prevention of Conflicts of Interest**

The Parking Regulation requires a municipal parking AMP system to include guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur.

The Hearing Officer By-law (Appendix B) and Enforcement By-law (Appendix C) also include a number of measures to prevent and redress conflicts of interest, as more particularly summarized under those headings below.

## **3. Financial Management**

The Parking Regulation requires a parking AMP system to include policies and procedures regarding financial management. The proposed AMP system addresses this requirement as follows:

- A person who does not pay a parking AMP within 15 days of its date must pay an administrative fee for the City's search of the records of the Ontario Ministry of Transportation: (Appendix A: 6.l) and 11).
- There is no fee for requesting a review of a parking AMP by a Screening Officer or for appealing to a Hearing Officer against a decision of the Screening Officer.
- A person's obligation to pay a parking AMP and any administrative fees is subject to the person's right to a review by a Screening Officer and to an appeal to a Hearing Officer: (Appendix A: 12 and 13.l))
- A person who requests a review of a parking AMP, elects to meet with a Screening Officer and then does not attend or remain at the meeting with the Screening Officer must pay an administrative fee: (Appendix A: 6.m) and 13.i)iii)).
- A person who exercises a right of appeal to a Hearing Officer and then does not attend or remain at the hearing of the appeal must pay an administrative fee: (Appendix A: 6.i) and 14.h)iv)).
- The City must refund the amount of any parking AMP or administrative fee that is cancelled or reduced on review or appeal: (Appendix A: 20).
- A parking AMP (as it may be reduced on review or appeal) constitutes a debt to the City: (Appendix A: 19).
- A person who does not pay a parking AMP or any administrative fee within 15 days of their due date must pay a late payment fee: (Appendix A: 6.j) and 21).
- A person who does not pay a parking AMP or any administrative fee within 30 days of their due date must pay a fee for the City's notification to the Registrar of Motor Vehicles: (Appendix A: 6.k) and 22).
- Appendix D is the form of by-law that would amend the User Fees By-law to include the administrative fees related to the proposed AMP system.

#### **4. Complaints**

The Parking Regulation requires a municipal parking AMP system to include procedures for the filing and processing of complaints made by the public with respect to the administration of the system.

The proposed AMP system contemplates that complaints and comments respecting the administration of the AMP system are given to the City's Supervisor, Enforcement Services, and then considered by the Commissioner, Infrastructure and Planning Services and the Commissioner, Corporate and Legislative Services, in relation to potential improvements to the AMP system (Appendix A: 23).

#### **Procedural Requirements**

The Parking Regulation requires a parking AMP system to include certain procedural requirements. The following subsections overview the required procedures and how they are addressed in the proposed AMP system.

##### **1. Notice**

The owner of the vehicle must be provided with reasonable notice that a parking AMP is payable. The proposed AMP system addresses the notice requirement as follows:

- A penalty notice must be given to the person as soon as is practicable: (Appendix A: 7, 8 and 10).
- The penalty notice must include certain information including respecting the process by which a person may request that the AMP be reviewed and stating that the AMP will, unless cancelled or reduced pursuant to the review or appeal processes, constitute a debt of the person to the City: (Appendix A: 10).
- Specific methods of giving notice to the person are prescribed: (Appendix A: 15 and 16).

##### **2. Payment**

The Parking Regulation requires that the individual issuing a parking AMP penalty notice may not accept payment of the parking AMP: (See Appendix A: 18).

##### **3. First Level Review of Penalty**

The Parking Regulation requires that a person receiving a parking AMP penalty notice have a right to request a review of the AMP by a "screening officer" appointed by the municipality. The screening officer may cancel, affirm or vary the AMP, including any administrative fee, on grounds set out in the municipal by-law.

The proposed parking AMP system addresses these requirements as follows:

- A person who is given a penalty notice may request that the AMP be reviewed by a "Screening Officer": (Appendix A: 6.z) and 12).
- The review process is set out in detail (Appendix A: 13).

- The person may elect to (1) meet electronically with the Screening Officer, (2) meet with the Screening Officer in person, or (3) have the review undertaken by the Screening Officer without a meeting: (Appendix A: 13.c)v)).
- The Screening Officer may cancel, reduce or extend the time for payment of the AMP and any administrative fee where (1) there is reason to doubt that a contravention occurred (2) the person took all reasonable steps to prevent the contravention, or (3) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship: (Appendix A: 13.j)iii)).

#### **4. Second Level Review by Hearing Officer**

The Parking Regulation requires that a person who receives notice of the screening officer's decision must be given a right to a review of that decision by a "hearing officer" appointed by the municipality. This right to a review includes a right to be heard by the hearing officer. The hearing officer may cancel, affirm or vary the decision of the screening officer, on grounds set out in the municipal by-law.

The proposed parking AMP system addresses these requirements as follows:

- A person who is given a "Screening Decision" may appeal to a Hearing Officer: (Appendix A: 6.x) and 13.l)).
- The appeal process is set out in detail: (Appendix A: 14).
- The person may elect for the appeal to be heard by the Hearing Officer (1) electronically or, (2) in person: (Appendix A: 14.d)v)).
- The Hearing Officer may cancel, reduce or extend the time for payment of the AMP and any administrative fee where (1) there is reason to doubt that a contravention occurred (2) the person took all reasonable steps to prevent the contravention, or (3) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship: (Appendix A: 13.j)iii) and 14.j)).

#### **5. Procedural Requirements re Hearing Officer**

The Parking Regulation requires the hearing officer's appointment to be consistent with conflict of interest guidelines referred to above. This requirement is more specifically addressed under the heading, "Hearing Officer By-law", below.

The Parking Regulation also requires the hearing officer to conduct hearings in an impartial manner and pursuant to the **Statutory Powers Procedure Act** and provides that the decision of a hearing officer is final. The proposed parking AMP system meets these requirements: (Appendix B: 17 and Appendix A: 14.k)).

#### **6. Extensions of Time**

The Parking Regulation requires a parking AMP system to establish procedures to permit a person to obtain extensions of time for requesting a review by a screening officer, for requesting a review by a hearing officer and for paying an AMP. The procedures must also provide for the suspension of enforcement mechanisms where an extension has been granted.

The proposed parking AMP system addresses these requirements as follows:

- Where a person's right to a review of an AMP has expired, the person may request the Screening Officer to extend the time to request a review and the Screening Officer has the jurisdiction to grant an extension: (Appendix A: 13.b), c) and j)ii)).
- Where a person's right to appeal to a Hearing Officer against a Screening Decision has expired, the person may request the Hearing Officer to extend the time to appeal and the Hearing Officer has the jurisdiction to grant an extension: (Appendix A: 14.c), d) and j)i)).
- A person's obligation to pay an AMP and related administrative fees does not arise until the person's rights respecting a review by a Screening Officer or an appeal by a Hearing Officer have expired or, alternatively, have been exercised within the time limited for doing so and determined by the Screening Officer or the Hearing Officer. Accordingly, any enforcement of an obligation to pay is correspondingly delayed and, ultimately, dependent on the outcome of a review or appeal, as applicable.

## **7. Hardship**

The Parking Regulation requires a parking AMP system to establish procedures to permit persons to be excused from paying all or part of an AMP and related administrative fees in circumstances of "undue hardship".

As noted above, the proposed parking AMP system confers on each of the Screening Officer and the Hearing Officer the jurisdiction to cancel, reduce or extend the time for payment of an AMP in certain circumstances including to "relieve undue financial hardship": (Appendix A: 13.j)iii)(3) and 14.j)ii)).

## **Hearing Officer By-law**

As noted, the Parking Regulation requires a municipality to develop standards relating to the administration of the system of parking AMPs including "policies and procedures to prevent political interference in the administration of the system" and "guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur".

The following subsections overview how the required standards and guidelines are addressed by the proposed Hearing Officer By-law (Appendix B):

### **1. Qualifications**

Each Hearing Officer is appointed by Council on the recommendation of the CAO in consultation with the City Solicitor which recommendation gives preference to an eligible candidate who is of "good character" and who "has knowledge of and experience in administrative law": (Appendix B: 7).



## **2. Conflicts of Interest**

City employees, Councillors and their respective parents, spouses and children are ineligible for appointment as a Hearing Officer. Debtors of the City (other than in respect of current real property taxes or pursuant to an agreement in good standing) are also ineligible: (Appendix B: 8).

## **3. Independence of Hearing Officer**

It is an offence for a person who attempts, directly or indirectly, to communicate with or influence a Hearing Officer respecting the determination of an issue in a proceeding that is or will be pending before the Hearing Officer, except a person who is entitled to be heard in the proceeding and only by that person during the hearing of the proceeding in which the issue arises: (Appendix B: 18).

## **Enforcement By-law**

The proposed Enforcement By-law also addresses the Parking Regulation's requirement for standards related to political interference and guidelines respecting conflicts of interest by prescribing standards for investigations and enforcement as follows:

- Investigations and enforcement must be undertaken “with regard to the evidence, with a view to compliance with Municipal Standards by the most efficient and effective means and independently of political or other external influences” and “diligently, fairly, and in a manner consistent with the public interest...”: (Appendix C: 11 and 12).
- Each Officer must not accept a fee, gift or personal benefit, except compensation authorized by law, which is connected directly or indirectly with the performance of their duties: (Appendix C: 14).
- Each Officer must disclose to the Officer's supervisor any attempt at improper influence or interference, financial, political or otherwise, respecting the Officer's performance of the Officer's duties: (Appendix C: 15, 16 and 17).
- Each Officer must disclose to the Officer's supervisor any actual or reasonably perceived conflict of interest: (Appendix C: 18).
- Officers who make these required disclosures and those to whom they are made or referred are protected: (Appendix C: 19).

Similar standards are prescribed for POA prosecutions: (Appendix C: 20-28).

## **Parking By-law**

As noted, the proposed by-law to amend the Parking By-law (Appendix E) would establish parking AMPs to replace POA prosecutions for contraventions of the Parking By-law.

It is proposed that, at this time, the parking AMPs be set at the same rate as currently is established by set fine order for POA prosecutions of the Parking By-law.

The Parking Regulation provides that the POA does not apply to the contravention of a parking by-law when the parking by-law has been “designated” by a municipality as a by-law to which a system of parking AMPs applies. As a practical matter, that means that a municipality must be prepared to “go live” with its parking AMP system on the first day on which the designation is effective, because, on that date, the municipality may no longer rely on the POA to enforce the parking by-law. Accordingly, it is proposed that the authority to determine the effective date of the amendments to the Parking By-law be delegated to the Mayor and City Clerk in consultation with the CAO to facilitate an orderly implementation of the parking AMP system: (Appendix E: 2, 3)

### **Inter-Municipal Service Agreements**

Recommendation d) seeks Council’s authority for inter-municipal service agreements with other municipalities pursuant to which the City may administer those municipalities’ AMP systems. The City is well positioned in several ways to consider mutually beneficial terms on which the City’s proposed AMP system may also serve the needs of neighbouring Townships and other municipalities.

## **Summary**

Municipalities have had the jurisdiction to establish municipal AMP systems for almost 14 years. Municipal AMP systems are an additional tool to more efficiently and effectively encourage compliance with municipal standards in circumstances where a quasi-criminal POA prosecution may be more than what is required. Parking AMP systems are particularly efficient and effective in contrast to POA prosecutions.

The proposed parking AMP system meets or exceeds all requirements of the Parking Regulation.

Staff will explore the opportunity for inter-municipal service agreements with other municipalities pursuant to which the City may administer those municipalities' AMP systems on mutually beneficial terms.

Submitted by,

Cynthia Fletcher, Commissioner  
Infrastructure and Planning Services

Richard Freymond, Commissioner  
Corporate and Legislative Services

Contact Names:

Cynthia Fletcher, Commissioner  
Infrastructure and Planning Services  
Phone: (705) 742 7777 Ext. 1894  
Toll Free: 1 (855) 738 3755  
E-mail: [cfletcher@peterborough.ca](mailto:cfletcher@peterborough.ca)

Richard Freymond, Commissioner  
Corporate and Legislative Services  
Phone: (705) 742 7777 Ext. 1863  
Toll Free: 1 (855) 738 3755  
E-mail: [rfreymond@peterborough.ca](mailto:rfreymond@peterborough.ca)

David J. Potts, City Solicitor  
Phone: (705) 742 7777 Ext. 1603  
Toll Free: 1 (855) 738 3755  
E-mail: [dpotts@peterborough.ca](mailto:dpotts@peterborough.ca)

### **Attachments**

Appendix A: AMP System By-law  
Appendix B: Hearing Officer By-law  
Appendix C: Enforcement By-law  
Appendix D: By-law to Amend Fees By-law  
Appendix E: By-law to Amend Parking By-law

## The Corporation of the City of Peterborough

### By-Law Number 20-xxx

Being a by-law to establish an administrative penalty system.

Short Title .....	2
Interpretation .....	2
Penalty Notice .....	4
Review by Screening Officer .....	5
Appeal to Hearing Officer .....	7
Methods of Giving Notice.....	8
Financial Administration.....	9
Complaints and Comments .....	9
General.....	10
Effective Date .....	10

### Whereas

1. The **Municipal Act, 2001**, section 102.1 authorizes a municipality to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles.
2. The **Municipal Act, 2001**, section 434.1 authorizes a municipality to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the **Municipal Act, 2001**.
3. The **Building Code Act, 1992**, section 15.4.1 authorizes a municipality to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with the municipality's property standards by-law or with a property standards order.
4. Council intends by this By-law to establish the system pursuant to which administrative penalty notices are given and may be reviewed and appealed.

**Now therefore**, The Corporation of the City of Peterborough by its Council enacts as follows:

### **Short Title**

1. This By-Law may be referred to as the "AMP System By-law".

### **Interpretation**

2. Unless otherwise stated:
  - a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
  - b) a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
  - c) a reference to a section, paragraph, clause, subclause or schedule is a reference to this By-law's section, paragraph, clause, subclause or schedule.
3. The table of contents and headings in this By-law are for convenience only and do not form part of this By-law.
4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
5. This By-law does not limit the City's right to enforce a Designated By-law or a Property Standards Order by all legal means.
6. In this By-law:
  - a) "Administrative Fee" means an administrative fee respecting an Administrative Penalty established by the Fees By-law including:
    - i) Fee – Appeal No-Show
    - ii) Fee – Late Payment
    - iii) Fee – MTO Plate Denial
    - iv) Fee – MTO Plate Search; and
    - v) Fee – Screening No-Show.
  - b) "Administrative Penalty" means an administrative penalty established by a Designated By-law.
  - c) "By-law" means this by-law and any schedule to this by-law as they may from time to time be amended.
  - d) "CAO" means the City's Chief Administrative Officer.
  - e) "City" means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
  - f) "City Clerk" means the City's Clerk.
  - g) "Council" means the City's Council.

- h) “Designated By-law” means each by-law that is designated by the City or by a Municipality as a by-law to which this By-law applies.
- i) “Fee – Appeal No-Show” means an administrative fee from time to time established by the Fees By-law in respect of a Person’s failure to appear at the time and in the manner scheduled for a hearing before a Hearing Officer.
- j) “Fee – Late Payment” means an administrative fee from time to time established by the Fees By-law in respect of a Person’s failure to pay an Administrative Penalty by the date on which it is due and payable.
- k) “Fee – MTO Plate Denial” means an administrative fee from time to time established by the Fees By-law for notifying the Registrar of Motor Vehicles for the purposes of plate permit denial.
- l) “Fee – MTO Plate Search” means an administrative fee from time to time established by the Fees By-law for searching the records of the Ontario Ministry of Transportation.
- m) “Fee – Screening No-Show” means an administrative fee from time to time established by the Fees By-law in respect of a Person’s failure to appear at the time and in the manner scheduled for a review by a Screening Officer.
- n) “Fees By-law” means the City’s User Fees By-law.
- o) “Hearing Officer” means each hearing officer from time to time appointed pursuant to the City’s Hearing Officer By-law.
- p) “Municipality” means a municipality in Ontario other than the City that is a party to an agreement with the City respecting the City’s administration of the municipality’s administrative penalty system.
- q) “Officer” means:
  - i) the Supervisor;
  - ii) each person from time to time appointed as a municipal law enforcement officer to enforce a City by-law or a by-law of a Municipality;
  - iii) each assistant to the Fire Marshal employed by the City or by a Municipality; and
  - iv) a police officer employed by Peterborough Police Service, the Ontario Provincial Police or the Royal Canadian Mounted Police.
- r) “Parking Administrative Penalty” means an Administrative Penalty established by a Designated By-law with respect to parking, standing or stopping of vehicles.
- s) “Penalty Notice” means a notice given pursuant to sections 8 and 10.
- t) “Penalty Notice Date” means the date specified on the Penalty Notice pursuant to paragraph 10.a).
- u) “Penalty Notice Number” means the number specified on the Penalty Notice pursuant to paragraph 10.b).

- v) "Person" includes an individual, partnership, association, firm or corporation and, where a Penalty Notice has been given to more than one Person, includes each such Person.
- w) "Property Standards Order" means an order made pursuant to subsection 15.2(2) of the **Building Code Act, 1992** as deemed confirmed or as confirmed or modified by the City's Property Standards Committee, by a Municipality's Property Standards Committee or by a judge of the Superior Court of Justice pursuant to section 15.3 of the **Building Code Act, 1992**.
- x) "Screening Decision" means a decision made by a Screening Officer pursuant to paragraph 13.i)iv).
- y) "Screening Decision Date" means the date on which a Screening Decision is made pursuant to paragraph 13.i)iv).
- z) "Screening Officer" means each person from time to time performing the functions of a Screening Officer pursuant to this By-law.
- aa) "Supervisor" means:
  - i) for Parking Administrative Penalties, the City's Parking Operations Coordinator; and
  - ii) for Administrative Penalties other than Parking Administrative Penalties, the City's Supervisor, Enforcement Services.

## **Penalty Notice**

7. Each Person who contravenes a provision of a Designated By-law or a Property Standards Order is, when given a Penalty Notice in accordance with section 8, liable to pay to the City an Administrative Penalty in the amount specified by the Designated By-law for each day or part of a day on which the contravention occurs or continues.
8. An Officer who has reason to believe that a Person has contravened any provision of a Designated By-law or a Property Standards Order may give to the Person a Penalty Notice.
9. The Supervisor may, before 4:30 pm of the tenth (10<sup>th</sup>) day after the Penalty Notice Date, cancel the Penalty Notice if the Supervisor determines that the Penalty Notice was issued in error.
10. The Penalty Notice must be given to the Person as soon as is reasonably practicable and must include the following information:
  - a) the date of the Penalty Notice;
  - b) a reference number that is unique to that Penalty Notice;
  - c) particulars of the contravention;
  - d) the amount of the Administrative Penalty;

- e) such information as the Supervisor determines is appropriate respecting the process by which the person may exercise the Person's right to request a review of the Administrative Penalty; and
  - f) a statement advising that an Administrative Penalty will, unless cancelled or reduced pursuant to the review and appeal processes, constitute a debt of the Person to the City.
11. A Person who is given a Penalty Notice respecting a Parking Administrative Penalty and who does not pay to the City the amount of the Parking Administrative Penalty within fifteen (15) days of the Penalty Notice Date must pay to the City a Fee – M.T.O. Plate Search.
12. A Person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer pursuant to section 13.

### **Review by Screening Officer**

13. The following applies to reviews of an Administrative Penalty by a Screening Officer:
- a) A Person's right to request a review expires if it has not been exercised in the manner prescribed in paragraph c) before 4:30 p.m. on the twenty-first (21st) day after the Penalty Notice Date.
  - b) A Person's right to request an extension of the time to request a review expires if it has not been exercised in the manner prescribed in paragraph c) before 4:30 p.m. on the forty-second (42nd) day after the Penalty Notice Date at which time:
    - i) the Person is deemed to have waived the right to request a review;
    - ii) the Administrative Penalty is deemed to be affirmed; and
    - iii) the Administrative Penalty and each Administrative Fee are not subject to review, including review by any Court.
  - c) A Person's rights to request a review and to request an extension of time to request a review are exercised by giving to the City written notice of the request to review that includes:
    - i) the Penalty Notice Number;
    - ii) the Person's mailing address, e-mail address and, if applicable, facsimile transmission number;
    - iii) in the case of a request to extend the time to request a review, the reasons, if any, for having failed to exercise the right to request a review within the time limited by paragraph a);
    - iv) particulars of all grounds upon which the request to review is based; and
    - v) the Person's election to:
      - (1) meet with a Screening Officer electronically for the review;
      - (2) meet with a Screening Officer in person for the review; or to



- (3) have the review undertaken by a Screening Officer without meeting the Screening Officer.
- d) The City Clerk may establish standards and procedures that, in the opinion of the City Clerk, reasonably enables a Person and a Screening Officer to meet electronically for the purposes of this section 13.
  - e) If the Penalty Notice has been given to more than one Person and any Person's election pursuant to clause c)v) is not the same as another Person's election, all such Persons will be deemed to have elected to meet with a Screening Officer in person for the review pursuant to subclause c)v)(2).
  - f) The Person's right to a review is limited to the particulars provided pursuant to clause c)iv).
  - g) Where the Person elects to meet electronically with a Screening Officer pursuant to subclause c)v)(1), the Person must be given notice of the date and time of the meeting for the review and particulars of the electronic means by which the person will meet electronically with the Screening Officer.
  - h) Where the Person elects to meet in person with a Screening Officer pursuant to subclause c)v)(2), the Person must be given notice of the date, time and place of the meeting for the review.
  - i) Where the Person elects to meet electronically with a Screening Officer pursuant to subclause c)v)(1) or in person with a Screening Officer pursuant to subclause c)v)(2), the Person must attend the meeting for the review pursuant to the notice and remain in or at the meeting until the Screening Officer has made a Screening Decision respecting the Administrative Penalty the subject of the Person's request for the review failing which:
    - i) the Person is deemed to have abandoned the request for the review;
    - ii) the Administrative Penalty is deemed to be affirmed;
    - iii) the Person must pay to the City a Fee - Screening No-Show; and
    - iv) the Administrative Penalty and each Administrative Fee are not subject to review, including review by any Court.
  - j) Subject to paragraphs b) and i), the Screening Officer may:
    - i) confirm the Administrative Penalty and any Administrative Fees;
    - ii) extend the time to request a review; and may
    - iii) cancel, reduce or extend the time for payment of the Administrative Penalty and any Administrative Fees where the Screening Officer is satisfied that doing so would maintain the general intent and purpose of the Designated By-law and that:
      - (1) there is reason to doubt that the person contravened the Designated By-law or the Property Standards Order;
      - (2) the Person took all reasonable steps to prevent the contravention; or that

- (3) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.
- k) The Screening Decision must be given to the Person.
- l) The Person may appeal to a Hearing Officer against the Screening Decision pursuant to section 14.

### **Appeal to Hearing Officer**

14. The following applies to appeals to a Hearing Officer against Screening Decisions:

- a) The right to appeal is limited to the following:
  - i) the Person who has been given a Screening Decision pursuant to paragraph 13k); and
  - ii) the Supervisor.
- b) The Person's right to appeal expires if it has not been exercised in the manner prescribed in paragraph d) before 4:30 p.m. on the twenty-first (21st) day after the Screening Decision Date.
- c) A Person's right to request an extension of the time to appeal expires if it has not been exercised in the manner prescribed in paragraph d) before 4:30 p.m. on the forty-second (42nd) day after the Screening Decision Date at which time:
  - i) the Person is deemed to have waived the right to appeal;
  - ii) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision are deemed to be affirmed; and
  - iii) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision are not subject to review, including review by any Court.
- d) A right to appeal is exercised by giving to the City written notice of the appeal that includes:
  - i) the Penalty Notice Number;
  - ii) the Person's mailing address, e-mail address and, if applicable, facsimile transmission number;
  - iii) in the case of a request to extend the time to appeal, the reasons, if any, for having failed to exercise the right to appeal within the time limited by paragraph b);
  - iv) particulars of all grounds directly related to the Screening Decision upon which the appeal is made; and
  - v) the Person's election for the appeal to be heard by the Hearing Officer
    - (1) electronically; or
    - (2) in person.
- e) The Person's right of appeal is limited to:

- i) grounds directly related to the Screening Decision; and to
  - ii) the particulars provided pursuant to clause d)iv).
- f) Where the Person elects to have the appeal heard by the Hearing Officer electronically pursuant to subclause d)v)(1), the Person must be given no fewer than seven (7) days' notice of the date and time of the electronic hearing of the appeal and particulars of the electronic means by which the person will attend the electronic hearing of the appeal.
- g) Where the Person elects to have the appeal heard by the Hearing Officer in person pursuant to subclause d)v)(2), the Person must be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- h) The Person must attend the hearing of the appeal pursuant to the notice and remain in or at the hearing of the appeal failing which:
  - i) the Person is deemed to have abandoned the appeal;
  - ii) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision are deemed to be affirmed;
  - iii) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision are not subject to review, including review by any Court; and
  - iv) the Person must pay to the City a Fee - Appeal No-Show.
- i) A Hearing Officer may not make any decision respecting an appeal unless the Hearing Officer has given each of the Person, a Supervisor and the Officer who gave the Penalty Notice an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- j) Subject to paragraphs c), h) and i) a Hearing Officer may:
  - i) extend the time to request an appeal; and may
  - ii) make any decision that the Screening Officer could have made pursuant to this By-law.
- k) The decision of a Hearing Officer is final and not subject to review including review by any Court.

### **Methods of Giving Notice**

15. Subject to section 17, any notice or document respecting this By-law may be given to a Person in writing in any of the following ways and is effective:
- a) when a copy is placed on or affixed in any manner to a Person's vehicle;
  - b) when a copy is delivered to the Person to whom it is addressed;
  - c) on the third (3rd) day after a copy is sent by registered mail or by regular lettermail to the Person's last known address;
  - d) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or

- e) upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's last known e-mail address.
- 16. For the purpose of section 15, a Person's last known address, last known facsimile transmission number and last known e-mail address are deemed to include those provided by the Person pursuant to clauses 13.c)ii) and 14.d)ii).
- 17. Any notice or document respecting this By-law to be given to the City must be in writing, must be given in any of the following ways and is effective:
  - a) when a copy is delivered to the Office of the City Clerk, City of Peterborough, during regular business hours at Main Floor, 500 George Street North, Peterborough, Ontario;
  - b) on the third (3rd) day after a copy is sent by registered mail or by regular lettermail to "Administrative Penalties, City of Peterborough, 500 George Street North, Peterborough, Ontario K9H 3R9";
  - c) upon the conclusion of the transmission of a copy by facsimile transmission to (705) 742 4138; or
  - d) upon the sending of the notice or document or a copy thereof by e-mail transmission to "AMPs@peterborough.ca".

### **Financial Administration**

- 18. An Officer who gives a Penalty Notice must not accept payment of the Administrative Penalty respecting that Penalty Notice.
- 19. An Administrative Penalty that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to this By-law is due and payable and constitutes a debt to the City of each Person to whom or to which the Penalty Notice was given.
- 20. Where a Person has paid an Administrative Penalty or an Administrative Fee that is then cancelled or reduced pursuant to this By-law, the City must refund the amount cancelled or reduced.
- 21. Where an Administrative Penalty or any Administrative Fee respecting that Administrative Penalty are not paid within fifteen (15) days after the date that they become due and payable, each Person to whom the Penalty Notice was given must pay to the City a Fee - Late Payment.
- 22. Where a Parking Administrative Penalty or any Administrative Fee respecting that Parking Administrative Penalty are not paid within thirty (30) days after the date that they become due and payable, each Person to whom the Parking Administrative Penalty Notice was given must pay to the City a Fee – MTO Plate Denial.

### **Complaints and Comments**

- 23. Complaints and comments respecting the administration of the City's system of administrative penalties may be given to the Supervisor. The City's Commissioner, Infrastructure and Planning Services and Commissioner, Corporate and Legislative Services, will consider each such complaint or comment in relation to the

Commissioners' consideration of potential improvements to the City's system of administrative penalties.

### **General**

24. The CAO may, in consultation with the City Solicitor, appoint as Screening Officers such individuals and on such terms as the CAO considers appropriate.
25. It is Council's opinion that the delegations in this By-law to the CAO, the City Clerk, the Supervisor, Hearing Officers and to Screening Officers are of a minor nature. In forming this opinion, Council has had regard to the number of people, the size of geographic area and the time period affected by the exercise of each delegated power.
26. No proceeding for damages or otherwise may be commenced against the City, a member of Council or an officer, employee or agent of the City or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

### **Effective Date**

27. This By-law is in effect on the day on which it is passed.

By-law passed this 26<sup>th</sup> day of October, 2020.

(Sgd.) Diane Therrien, Mayor [Draft]

(Sgd.) John Kennedy, City Clerk [Draft]

---

## The Corporation of the City of Peterborough

### By-Law Number 20-xxx

Being a by-law to establish the position of Hearing Officer.

---

#### Whereas

1. Council intends by this By-law to establish the position of Hearing Officer to whom may be delegated quasi-judicial and other authority under various City by-laws.

**Now therefore**, The Corporation of the City of Peterborough by its Council enacts as follows:

#### Short Title

1. This By-Law may be referred to as the "Hearing Officer By-law".

#### Interpretation

2. Unless otherwise stated:
  - a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
  - b) a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
  - c) a reference to a section, paragraph, clause or schedule is a reference to this By-law's section, paragraph, clause or schedule.
3. The headings in this By-law are for convenience only and do not form part of this By-law.
4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
5. In this By-law:
  - a) "Administrative Penalty" means an administrative penalty established by a Designated By-law.
  - b) "By-law" means this by-law and any schedule to this by-law as they may from time to time be amended.
  - c) "CAO" means the City's Chief Administrative Officer.
  - d) "Child" means a child born within or outside marriage and includes

- i) an adopted child; and
- ii) a person whom another person has demonstrated a settled intention to treat as a child of the other person's family.
- e) "City" means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
- f) "City Clerk" means the City's Clerk.
- g) "Council" means the City's Council.
- h) "Delegated Power of Decision" means a power or right conferred by or under a City By-law to make a decision deciding or prescribing:
  - i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party; or
  - ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not.
- i) "Hearing Officer" means each person from time to time appointed pursuant to section 7.
- j) "Municipality" means a municipality in Ontario other than the City that is a party to an agreement with the City respecting the City's administration of the municipality's administrative penalty system.
- k) "Parent" means a person who has demonstrated a settled intention to treat a child as a member of the person's family whether or not that person is the natural parent of the child.
- l) "Proceeding" means a proceeding before a Hearing Officer and includes a hearing.
- m) "Spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage.

### **Appointment and Eligibility**

- 6. The positions of Hearing Officers are established for the purpose of exercising Delegated Powers of Decision.
- 7. Hearing Officers may be appointed by Council on the recommendation of the CAO in consultation with the City Solicitor which recommendation must give preference to eligible candidates:
  - a) with knowledge of and experience in administrative law; and
  - b) of good character.
- 8. The following are not eligible for appointment as a Hearing Officer:
  - a) an employee of the City or of a Municipality;
  - b) a member of Council or of a Municipality's council;
  - c) the Child of a person referenced in paragraphs a) or b);

- d) the Parent of a person referenced in paragraphs a) or b);
  - e) the Spouse of a person referenced in paragraphs a) or b); or
  - f) a person indebted to the City other than:
    - i) in respect of current real property taxes; or
    - ii) pursuant to an agreement with the City with which the person is complying.
9. Each Hearing Officer will hold office until the earlier of the date on which the Hearing Officer resigns and the date on which the appointment is revoked by Council.
10. Each Hearing Officer will be remunerated at the rate from time to time established by Council.

### Hearings

11. The City Clerk may determine the scheduling of Proceedings before a Hearing Officer with regard to the efficiency and timeliness of hearings processes and to the availability of Hearing Officers.
12. Proceedings before a Hearing Officer may be undertaken in person or electronically. The City Clerk may establish standards and procedures that, in the opinion of the City Clerk, reasonably enables a Proceeding to be undertaken electronically.
13. In any Proceeding, a statement respecting any matter related to the Proceeding purporting to be signed by a person authorized by a City by-law or by a Municipality's by-law to undertake inspections or enforcement is, without proof of the office or signature of such person, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the statement for all purposes in the Proceeding.
14. A representative may act on behalf of and represent a person in respect of a Proceeding where the Hearing Officer is satisfied that:
- a) the person is entitled to be heard by the Hearing Officer;
  - b) the representative is a lawyer, a licensed paralegal or a person who is exempt from the requirement to be licensed by by-law passed pursuant to the **Law Society Act**;
  - c) the person has authorized in writing the representative to act on behalf of and to represent the person in the particular Proceeding;
  - d) the written authorization specifies the representative's qualification for the purpose of paragraph b) including, in the case of a representative who claims to be exempt from the requirement to be licensed, the particular ground prescribed by by-law passed pursuant to the **Law Society Act** upon which the representative purports to be exempt; and
  - e) the written authorization has been filed in the Proceeding and remains in effect.
15. If a person requires an interpreter for the purpose of any Proceeding before a Hearing Officer, the person must provide the interpreter at the person's own expense.



16. No person may take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing visual or aural representations by electronic means or otherwise, at any Proceedings otherwise open to the public, except in the following circumstances:
- a) no fewer than three (3) days prior to the Proceeding, the person gives written notice to the City of the person's intention to request the Hearing Officer for permission to record the Proceeding which notice specifies the proposed means of recording;
  - b) the person bears all costs related to the proposed recording;
  - c) where the person proposes verbatim transcription:
    - i) the recording is undertaken by a qualified verbatim reporter;
    - ii) all testimony and submissions respecting the Proceeding are recorded; and
    - iii) the person delivers to the City no fewer than two (2) certified copies of the transcript prepared by the qualified verbatim reporter within three (3) days of the reporter's completion of the transcript;
  - d) the Hearing Officer determines that the Proceeding will not be disrupted or delayed if approval is given;
  - e) the Hearing Officer determines that the approval will not result in any prejudice to any party to the Proceeding;
  - f) prior to the commencement of the Proceeding, the Hearing Officer authorizes the recording and has not revoked the authorization; and
  - g) the recording is undertaken only in accordance with the Hearing Officer's approval including any terms or conditions to such approval.

17. Proceedings before Hearing Officers are subject to the **Statutory Powers Procedure Act**.

**Independence of Hearing Officer**

18. No person may attempt, directly or indirectly, to communicate with or influence a Hearing Officer in any way related to the determination of an issue respecting a Delegated Power of Decision in a Proceeding that is or will be pending except a person who is entitled to be heard in the Proceeding or the person's lawyer or licensed paralegal and only by that person or the person's lawyer or licensed paralegal during the hearing of the Proceeding in which the issue arises. Failure to comply with this section constitutes an offence.

19. Section 18 does not prevent a Hearing Officer from seeking and receiving legal advice including from a lawyer in the City's Legal Services.

**General**

20. The functions of a secretary-treasurer will be provided for Hearing Officers by City civic administration including the making and keeping of minutes and records of all applications and the decisions thereon and of all other official business of Hearing Officers.

21. Section 253 of the **Municipal Act, 2001** respecting the inspection of records applies with necessary modifications to documents made or kept pursuant to section 20.
22. No proceeding for damages or otherwise may be commenced against the City, a member of Council or an officer, employee or agent of the City or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

By-law passed this 26<sup>th</sup> day of October, 2020.

(Sgd.) Diane Therrien, Mayor [Draft]

(Sgd.) John Kennedy, City Clerk [Draft]

---

## The Corporation of the City of Peterborough

### By-Law Number 20-xxx

Being a by-law to establish a transparent, consistent, fair, unbiased, and effective process for the enforcement and prosecution of alleged contraventions of municipal standards.

---

#### Whereas:

1. Under the **Municipal Act, 2001**, municipalities may specify when a contravention of a by-law is an offence, establish a system of fines for offences under by-laws, establish systems of administrative penalties and exercise other enforcement powers.
2. The City of Peterborough administers, enforces and prosecutes alleged contraventions of its by-laws and other applicable provincial legislation within its mandate.
3. The goal of the City's enforcement activities is compliance with standards established by the City's by-laws and applicable provincial legislation employing the most efficient and effective means.
4. Prosecutors have the responsibility to ensure that every prosecution is carried out in a manner that is fair, dispassionate and moderate, consistent with the public interest, and that shows no signs of partisanship. As a fundamental principle, prosecutors must carry out their responsibilities independent of any partisan political influences.
5. The Transfer Agreement between the Province of Ontario and the City respecting courts administration, court support, prosecutions and appeals under the **Provincial Offences Act** and the **Contraventions Act** (Canada) requires the City to ensure that prosecutions are conducted in a manner consistent with various principles including prosecutorial independence.
6. Council considers it appropriate to ensure the proper administration of justice, to respect the roles of Council members, complainants, investigators and prosecutors in the administration, investigation, enforcement and prosecution of alleged contraventions of municipal by-laws and other applicable provincial legislation, and to ensure that such investigations, enforcement proceedings and prosecutions occur in a fair and unbiased way, free from any improper influence or interference.

**Now therefore**, The Corporation of the City of Peterborough by its Council enacts as follows:

### **Short Title**

1. This By-Law may be referred to as the “Enforcement By-law”.

### **Interpretation**

2. Unless otherwise stated:
  - a) a reference to a statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
  - b) a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
  - c) a reference to a section, paragraph, clause or schedule is a reference to this By-law’s section, paragraph, clause or schedule.
3. The headings in this By-law are for convenience only and do not form part of this By-law.
4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
5. Nothing in this By-law limits the City’s right to enforce Municipal Standards by any legal means.
6. In this By-law:
  - a) “By-law” means this By-law and any schedule to this By-law as they may from time to time be amended.
  - b) “CAO” means the City’s Chief Administrative Officer.
  - c) “City” means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
  - d) “Chief” means, in relation to
    - i) enforcement under the **Fire Protection and Prevention Act, 1997**, the City’s Fire Chief or the City’s Chief Fire Prevention Officer; and to
    - ii) enforcement under the **Building Code Act, 1992** and to all other enforcement by or on behalf of the City, the City’s Chief Building Official.
  - e) “Council” means the City’s Council.
  - f) “Municipal Standard” means a standard established by by-law of Council or by provincial legislation for which the by-law or legislation, as applicable, provides that contravention of the standard is an offence or otherwise provides for enforcement of the standard.
  - g) “Officer” means
    - i) the Chief;

- ii) each person from time to time appointed as a municipal law enforcement officer to enforce all or any of the City's by-laws;
  - iii) each assistant to the Fire Marshal employed by the City; and
  - iv) a police officer employed by Peterborough Police Service, the Ontario Provincial Police or the Royal Canadian Mounted Police.
- h) "Prosecutor" means each person from time to time performing the function of prosecuting an alleged contravention of a Municipal Standard, including before a court or tribunal.
- i) "Supervisor" means
- i) for any purpose related to the City's system of parking administrative penalties, the City's Parking Operations Coordinator; and
  - ii) for any other purpose, the City's Supervisor, Enforcement Services.

## **Roles**

7. Members of the public and individual members of Council may:
  - a) make complaints to the City regarding alleged contraventions of Municipal Standards; and
  - b) be summonsed to testify before a court or tribunal in the prosecution of an alleged contravention of a Municipal Standard.
8. Council may:
  - a) from time to time establish, amend and repeal Municipal Standards that are governed by by-law of Council;
  - b) establish the budget for and policies related to the enforcement of Municipal Standards; and
  - c) at meetings of Council or of one its Standing Committees, ask questions of, and receive information from, a Chief on general questions relating to the enforcement of Municipal Standards.
9. Officers may, subject to the directions of the Chief or the Supervisor, as applicable:
  - a) receive complaints regarding alleged contraventions of Municipal Standards;
  - b) screen complaints to determine if the subject matter of the allegation(s) falls within their jurisdiction;
  - c) undertake investigations into alleged contraventions of Municipal Standards either in response to complaints or proactively;
  - d) conclude investigations by making one of the following determinations:
    - i) there is insufficient evidence to proceed with enforcement in response to the complaint;
    - ii) the Municipal Standard the subject of the complaint has been brought into compliance;

- iii) the complaint is trivial, frivolous, vexatious or made in bad faith; or
- iv) the matter the subject of the complaint should be enforced; and
- e) for such matters for which a determination has been made pursuant to paragraph d)iv), cause to be undertaken enforcement by such means as may result in compliance with the Municipal Standard as efficiently and effectively as possible including, as applicable, by:
  - i) request;
  - ii) administrative order;
  - iii) municipal remedial work;
  - iv) administrative penalty;
  - v) commencing a proceeding under Part I of the **Provincial Offences Act**;
  - vi) referral to the City's Legal Services for prosecution under Part III of the **Provincial Offences Act**; and
  - vii) referral to the City's Legal Services for applicable relief by way of action or application in the Superior Court of Justice.

10. Prosecutors may, subject to the City Solicitor's directions:

- a) screen referrals for prosecution to determine whether there is a reasonable prospect of conviction or whether the prosecution of the alleged contravention of the Municipal Standard is in the public interest;
- b) initiate prosecutions of alleged contraventions of Municipal Standards;
- c) attend and conduct motions, trials, appeals and hearings before courts or tribunals related to prosecutions of alleged contraventions of Municipal Standards;
- d) enter into resolution discussions, negotiations and agreements; and
- e) withdraw prosecutions where there is no longer a reasonable prospect of conviction, where it is in the public interest to do so or where a withdrawal furthers the administration of justice.

## **Investigations**

- 11. All investigations and enforcement respecting alleged contraventions of Municipal Standards must be undertaken on a case-by-case basis, pursuant to any directions of the Chief or the Supervisor, as applicable, with regard to the evidence, with a view to compliance with Municipal Standards by the most efficient and effective means and independently of political or other external influences.
- 12. Officers must act on complaints as quickly as reasonably possible and undertake their investigations diligently, fairly, and in a manner that is consistent with the public interest and any direction of the Chief or the Supervisor, as applicable.

13. Officers must not disclose any confidential information including personal information gained in the execution of their duties except as required for prosecution purposes or otherwise in accordance with law.
14. Officers must not accept a fee, gift, or personal benefit, except compensation authorized by law, which is connected directly or indirectly with the performance of their duties.
15. Each Officer must disclose to the Officer's Chief or the Supervisor, as applicable, any attempt at improper influence or interference, financial, political or otherwise, respecting the Officer's performance of the Officer's duties.
16. Each Officer who is contacted by a member of Council with respect to an outstanding complaint or investigation matter, other than a complaint made by or against the Council member or in which the Council member is a witness, must immediately disclose such contact to the Officer's Chief or the Supervisor, as applicable.
17. The Chief or the Supervisor, as applicable, must disclose to the City Solicitor the particulars of each disclosure provided to the Chief or the Supervisor pursuant to sections 15 and 16. The City Solicitor will consult with the CAO and may report the particulars to Council.
18. Each Officer must disclose any actual or reasonably perceived conflict of interest as soon as possible to the Officer's Chief or the Supervisor, as applicable.
19. No action may be taken against an Officer, a Chief, the Supervisor or the City Solicitor, as the case may be, who discloses or reports in good faith pursuant to sections 15, 16, 17 or 18.

### **Prosecutions**

20. Prosecutors must ensure that each prosecution is carried out in a manner that is fair, dispassionate and moderate, consistent with the public interest and independent of political or other external influences.
21. Prosecutors must not disclose information that is gained in the execution of the Prosecutor's office and is not available to the public, except in accordance with law. Prosecutors must not use such information to further or seek to further the Prosecutor's financial, political, or personal interest.
22. Prosecutors must not accept a fee, gift or personal benefit, except compensation authorized by law, which is connected directly or indirectly with the performance of the Prosecutor's duties.
23. Prosecutors must not act or be directly or indirectly involved as counsel or agent for any other person in respect of any offence charged against the other person under a Municipal Standard.
24. Prosecutors must disclose to the City Solicitor any attempt at improper influence or interference, financial, political or otherwise, respecting the performance of the Prosecutor's duties.

25. Prosecutors who are contacted by a member of Council with respect to a prosecution matter must immediately disclose such contact to the City Solicitor.
26. Prosecutors must disclose to the City Solicitor any actual or reasonably perceived conflict of interest as soon as possible.
27. The City Solicitor will consult with the CAO and may report to Council the particulars of any disclosure made pursuant to sections 24, 25 or 26.
28. No action may be taken against a Prosecutor or the City Solicitor, as the case may be, who discloses or reports in good faith pursuant to sections 24, 25, 26 or 27.

By-law passed this 26<sup>th</sup> day of October, 2020.

(Sgd.) Diane Therrien, Mayor [Draft]

(Sgd.) John Kennedy, City Clerk [Draft]



---

**The Corporation of the City of Peterborough**

**By-Law Number 20-xxx**

Being a By-law to amend 2020 User Fee By-law 20-002

---

**Whereas** on October 13, 2020, General Committee approved recommending to Council staff's recommendation that 2020 User Fee By-law 20-002 be amended as set out in Report CLSOCS20-003.

**Now Therefore**, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That the 2020 User Fee By-law 20-002 be amended by adding the Form 6 schedule of User Fees and Charges for a system of administrative penalties as set out in Schedule A to this By-law.
2. This By-law is in effect on the day on which it is passed.

By-law passed this 26<sup>th</sup> day of October, 2020.

(Sgd.) Diane Therrien, Mayor [Draft]

(Sgd.) John Kennedy, City Clerk [Draft]

## Schedule A

2020

# Form 6

## User Fees and Charges - 2020

Department	Legal Services
Division	Provincial Offences Office
Activity	Provincial Offences Office

[illegible]

---

## The Corporation of the City of Peterborough

### By-Law Number 20-xxx

Being a By-law to amend Parking By-law 09-136 to designate the Parking By-law as a by-law to which the City's system of administrative monetary penalties is to apply.

---

**Whereas** on October 13, 2020, General Committee approved recommending to Council staff's recommendation that Parking By-law 09-136 be amended as set out in Report CLSOCS20-003 to designate the Parking By-law as a by-law to which the City's system of administrative monetary penalties is to apply.

**Now Therefore**, The Corporation of the City of Peterborough by the Council thereof enacts as follows:

1. Parking By-law 09-136 is amended as follows:
  - a) By deleting clauses 2.2(b)ii. and iii.;
  - b) By deleting the text of section 15.2 and by substituting the following text:

"Penalties Created: Each person who permits a VEHICLE to be parked, stopped or standing contrary to a part of this By-law that is designated pursuant to section 15.2.1 and each OWNER of that VEHICLE are, when given a Penalty Notice in accordance with the City's AMP System By-law, liable to pay to the City an administrative penalty in the amount specified in Schedule X to this By-law, for each day or part of a day on which the contravention occurs or continues.";
  - c) By adding a new section 15.2.1 as follows:

"Designation re Administrative Penalties: Section 15.2, Schedule X and the parts of this By-law to which that Schedule relates are designated as parts of this By-law to which the City's system established by the City's AMP System By-law applies.";
  - d) By deleting in section 16.2 the text, "and, subject to the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule X for PARKING infractions under this by-law,"; and by
  - e) Deleting Schedule X and by substituting as Schedule X the form of schedule attached to this By-law as Appendix A.

2. The Mayor and City Clerk are authorized to determine the day on which this By-law is in effect and may pass a by-law to amend this By-law to specify that day. Their determination must be in consultation with the Chief Administrative Officer with regard to the City's readiness to commence administration of the City's system of parking administrative penalties.
3. This By-law is in effect on a day to be determined in accordance with section 2 of this By-law.

By-law passed this 26<sup>th</sup> day of October, 2020.

(Sgd.) Diane Therrien, Mayor [Draft]

(Sgd.) John Kennedy, City Clerk [Draft]

## Appendix A to By-law 20-xxx

### Schedule X

#### Administrative Penalties

Item	Short Form Wording	By-law	Penalty
1.	Parked at angle other than 90 degrees	4.2	\$25
2.	Parked not completely within parking space	4.3(a)	\$25
3.	Occupy more than one parking space	4.3(b)	\$25
4.	Obstructing aisle	4.3(c)	\$25
5.	Parked right wheels more than 15cm from curb	4.8	\$25
6.	Parked right wheels more than 15cm from right limit of roadway	4.9	\$25
7.	Parked left wheels more than 15cm from curb	4.10	\$25
8.	Parked left wheels more than 15cm from left limit of roadway	4.11	\$25
9.	Stopped on sidewalk	4.13	\$30
10.	Stopped within intersection/crosswalk	4.14	\$30
11.	Stopped within 10m of crosswalk	4.15	\$30
12.	Stopped so as to interfere with traffic	4.16	\$30
13.	Stopped so as to interfere with snow clearing	4.17	\$80
14.	Stopped so as to interfere with highway cleaning	4.18	\$30
15.	Stopped alongside other stopped vehicle	4.19	\$30
16.	Stopped on bridge/tunnel/underpass	4.20	\$30
17.	Stopped on median	4.21	\$30
18.	Stopped along excavation/obstruction impede traffic	4.22	\$30
19.	Stopped near intersection pedestrian signal	4.23	\$30
20.	Stopped where prohibited in school area	4.24	\$30
21.	Stopped near school crossing	4.25	\$30
22.	Parked on or over boulevard	4.26	\$25
23.	Parked within 2m of driveway	4.27	\$25
24.	Parked to obstruct driveway	4.28	\$25
25.	Parked within 3m of fire hydrant	4.29	\$25
26.	Stopped within 10m of intersection	4.30	\$30
27.	Stopped within 30m of intersection	4.30	\$30
28.	Parked to display vehicle for sale	4.31	\$25
29.	Parked to grease/wash/repair vehicle	4.32	\$25
30.	Parked 30m advance/15m beyond railway crossing	4.33(a)	\$25
31.	Parked within 4m of railway tracks	4.33(b)	\$25
32.	Parked to obstruct removal of other parked vehicle	4.34	\$25
33.	Parked longer than 3 hours	4.35	\$25
34.	Parked between 2am and 6am December 1 <sup>st</sup> to April 1 <sup>st</sup>	4.36	\$25
35.	Parked on a temporarily closed highway	4.37	\$25
36.	Parked oversized vehicle on highway	4.38	\$25
37.	Parked at covered parking control device	4.39	\$25

Item	Short Form Wording	By-law	Penalty
38.	Stopped in prohibited area	5.1	\$30
39.	Parked in prohibited area	6.1	\$25
40.	Parked longer than maximum permitted period	6.2	\$25
41.	Parked on private property without consent	7.1	\$25
42.	Parked in fire route	7.3	\$25
43.	Parked on municipal property without consent	7.4	\$25
44.	Parked in lot	8.4	\$25
45.	Parked in parkade	8.6	\$25
46.	Parked longer than maximum permitted at control device	9.2	\$25
47.	Parked in commercial vehicle loading zone	10.1	\$25
48.	Stopped in taxi stand	11.1	\$30
49.	Parked in bus stop	12.2	\$25
50.	Parked 18m in advance of or 30m beyond bus stop	12.3	\$25
51.	Parked in school bus loading zone	12.5	\$25
52.	Parked in Accessible Parking Space – no permit displayed	13.3	\$300