



## By-law 2024-137

### **A By-law to establish an Administrative Monetary Penalty System (AMPS) for Contraventions of Designated By-laws in the City of Markham**

---

**Whereas** Section 102.1 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, and Ontario Regulation 333/07 authorizes the City to require a person to pay an administrative penalty for a contravention of any by-law respecting the parking, standing, or stopping of vehicles; and

**Whereas** Section 434.1 of the Municipal Act, 2001 authorizes the City to require that a person pay an administrative penalty if the municipality determines that the person has failed to comply with a municipal by-law; and,

**Whereas** Subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty that is imposed by the City on a person constitutes a debt of that person to the City; and,

**Whereas** Sections 23.1, 23.2, 23.3, and 23.5 of the Municipal Act, 2001 authorizes municipalities to delegate its administrative and hearing powers; and

**Whereas** Section 391 of the Municipal Act, 2001 authorizes the City to pass By-laws to impose fees or charges on persons for services or activities provided or performed by or on its behalf; and,

**Whereas** Subsection 434.2(2) of the Municipal Act, 2001 provides that if an administrative penalty imposed under section 434.1 is not paid within fifteen (15) days after the day that it becomes due and payable, the Treasurer of a local municipality may, and upon the request of its upper-tier municipality, if any, shall, add the administrative penalty to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the administrative penalty, and collect it in the same manner as municipal taxes; and

**Whereas** Section 15.4.1(1) of the Ontario Building Code, 1992, as amended, authorizes the City to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a By-law of the municipality.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:**

**1.0 Application of this By-Law**

**1.1** This By-law establishes the framework for the issuance of Administrative Monetary Penalties for a Contravention of any provision of this By-law, a Designated By-law, an order, a work order, or any other order issued pursuant to a Designated By-law.

**1.2** The following schedules, and any related appendices, attached hereto form

part of this By-law:

Schedule A – Definitions

Schedule B – Designated By-laws

Schedule C – Tiered Administrative Monetary Penalty  
Amounts

Schedule D – Administrative Fees

1.3 The application of the Provincial Offences Act, R.S.O. c.P.33 as amended does not apply to a Contravention of the City's Parking By-law 2005-188, as amended.

1.4 Subject to Section 1.3 herein, an Officer has the discretion to issue an Administrative Monetary Penalty or proceed with the laying of a charge under the Provincial Offences Act in respect of a Contravention. Where an Officer issues an Administrative Monetary Penalty for a Contravention, no charge shall be laid for the same Contravention under the Provincial Offences Act.

1.5 A Contravenor who is issued an Administrative Monetary Penalty shall be subject to the provisions of this By-law.

## **2.0 Penalty Notice**

2.1 An Officer who has reason to believe that a Person has committed a Contravention may issue a Penalty Notice to the Person as soon as reasonably practicable.

2.2 A Penalty Notice shall include the following information as applicable:

- a. The Date of Issue;
- b. The Penalty Notice Number;
- c. The Penalty Contravention Date along with particulars/description sufficient to identify the nature/specifics of the Contravention and location or property as applicable;
- d. Administrative Monetary Penalty Amount;
- e. The options for payment and/or dispute of the Administrative Monetary Penalty Amount by the Penalty Due Date;
- f. The first initial and last name, badge number (if applicable) and signature of the Officer;
- g. In the case of a vehicle or traffic related Contravention, the vehicle licence plate number or vehicle identification number (VIN); and
- h. Any additional information as the Clerk determines is appropriate for any Contravenor to request a Screening Review of the Administrative Monetary Penalty.

2.3 Every Contravenor who is issued a Penalty Notice shall pay the Administrative Monetary Penalty Amount (including any Administrative Fee(s) noted therein), on or before the Penalty Due Date, failing which additional Administrative Fee(s) may be applicable.

2.4 The City shall apply a system of tiered Administrative Monetary Penalty Amounts in accordance with Schedule "C" attached hereto.

## **3.0 Review by Screening Officer**

3.1 A Contravenor who is issued a Penalty Notice, or the Contravenor's authorized agent, may request, on or before the Penalty Due Date, a Screening Review.

- 3.2 At a Screening Review, a Screening Officer shall conduct a review of the Penalty Notice with the Contravenor, or their authorized agent, and shall issue a written decision to either:
- a) Affirm the Administrative Monetary Penalty Amount, including any Administrative fee(s), and the date by which such amount must be paid to the City; or
  - b) Cancel, vary, and/or extend the time for payment of the Administrative Monetary Penalty Amount, including any Administrative Fee(s), on the following grounds:
    - i. Where the Contravenor demonstrates that the Contravention set out in the Penalty Notice did not occur,
    - ii. The Contravenor took all reasonable steps to prevent or otherwise mitigate the Contravention; or
    - iii. That the cancellation, variation, or extension of time for payment of the Administrative Monetary Penalty Amount, including any Administrative Fee(s), is necessary to relieve financial hardship,  
(a "Screening Decision").
- 3.3 A Screening Officer has no authority to consider questions relating to the validity of a statute, regulation or By-law or the constitutional applicability or operability of any statute, regulation or By-law, including this By-law.
- 3.4 If a Contravenor, or their authorized agent, behaves in a disorderly, uncooperative, or abusive manner during the Screening Review, or refuses to appropriately participate in the Screening Review, the Screening Officer may end the Screening Review. Upon this occurrence, the Contravenor shall pay the Administrative Monetary Penalty Amount, plus any applicable Administrative Fee(s), within fifteen (15) days from the date of the Screening Review.
- 4.0 Failure to Attend Screening Review**
- 4.1 Where the Contravenor, or their authorized agent, fails to attend at the time and place scheduled for a Screening Review:
- a) The Contravenor shall be deemed to have abandoned the request for a Screening Review; and
  - b) The Administrative Monetary Penalty Amount, including any applicable Administrative Fee(s), shall be deemed to be affirmed as of the date of the Screening Review and the Contravenor shall pay such amount within fifteen (15) days of the date of the Screening Review.
- 4.2 Notwithstanding Section 4.1 herein, where a Contravenor, or their authorized agent, fails to appear for a Screening Review, the AMPS Manager may, at their discretion, schedule a new Screening Review where the Contravenor, or their authorized agent, demonstrates the existence of extenuating circumstances, sufficient evidence of which must be provided to the AMPS Manager at the time of the request, that warrant the scheduling of a new Screening Review. The Contravenor, or their authorized agent, must make such request within fifteen (15) days from the scheduled date of the Screening Review.
- 5.0 Extension of Time - Screening Review**
- 5.1 If a Contravenor, or their authorized agent, has not requested a Screening Review and/or has not paid the Administrative Monetary Penalty Amount,

including all applicable Administrative Fee(s), on or before the Penalty Due Date, the Contravenor, or their authorized agent, may make a request in writing to the Screening Officer to:

- a) Schedule a Screening Review; and/or
- b) Extend the deadline to pay the Administrative Monetary Penalty Amount, including any applicable Administrative Fee(s),  
(a "Screening Extension Request").

5.2 A Contravenor, or their authorized agent, must make a Screening Extension Request on or before the day that is forty-five (45) days after the Penalty Due Date and must demonstrate the existence of extenuating circumstances and provide sufficient evidence in relation thereto (i.e. medical note, death certificate or financial records).

5.3 Upon receipt of a Screening Extension Request, the Screening Officer shall determine whether to:

- a) Approve the Screening Extension Request, in which event a Screening Review shall be scheduled and/or the deadline to pay the Administrative Monetary Penalty Amount, including all applicable Administrative Fee(s), shall be extended, as the case may be; or
- b) Deny the Screening Extension Request, in which event the Contravenor shall pay the Administrative Monetary Penalty Amount, plus any applicable Administrative Fee(s), within fifteen (15) days from the date of the Screening Officer's denial of the Screening Extension Request.

## **6.0 Review by Hearing Officer**

6.1 A Contravenor, or their authorized agent, may request a Hearing:

- a) Subject to Section 3.4 herein, at the Screening Review; or
- b) Within fifteen (15) days of the date of the Screening Decision.

6.2 At a Hearing, the Hearing Officer shall conduct a review of the Penalty Notice with the Contravenor, or their authorized agent, and shall issue a written decision to either:

- a) Affirm the Administrative Monetary Penalty Amount, including any Administrative Fee(s), and the date by which such amount must be paid to the City ; or
- b) Cancel, vary, and/or extend the time for payment of the Administrative Monetary Penalty Amount, including any Administrative Fee(s), on the following grounds:
  - i. Where the Contravenor demonstrates that the Contravention set out in the Penalty Notice did not occur;
  - ii. The Contravenor took all reasonable steps to prevent or otherwise mitigate the Contravention; or
  - iii. That the cancellation, variation, or extension of time for payment of the Administrative Monetary Penalty Amount, including any Administrative Fee(s), is necessary to relieve financial hardship  
(a "Hearing Decision").

6.3 A Hearing Officer shall not make any decision respecting a review of a Screening Decision unless the Hearing Officer has given the Contravenor, or their authorized agent, and a representative of the City an opportunity to be heard at the time and place scheduled for the Hearing.

6.4 All Hearings by a Hearing Officer shall be conducted in accordance with the Statutory Powers and Procedures Act, R.S.O. 1990, c. S.22, as amended.

- 6.5 The Hearing Decision is final and binding on the Contravenor.
- 6.6 A Hearing Officer has no authority to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation, or By-law, including this By-law.
- 6.7 If a Contravenor, or their authorized agent, behaves in a disorderly, uncooperative, or abusive manner during the Hearing, or refuses to appropriately participate in the Hearing, the Hearing Officer may end the Hearing. Upon this occurrence, the Contravenor shall pay the Administrative Monetary Penalty, plus any applicable Administrative Fee(s), within fifteen (15) days from the date of the Hearing.

#### **7.0 Failure to Attend Hearing**

- 7.1 Where the Contravenor, or their authorized agent, fails to attend at the time and place scheduled for a Hearing:
- a) The Contravenor shall be deemed to have abandoned the request for a Hearing; and
  - b) The Administrative Monetary Penalty Amount, including any applicable Administrative Fee(s), shall be deemed to be affirmed as of the date of the Hearing and the Contravenor shall pay such amount within fifteen (15) days of the date of the Hearing.
- 7.2 Notwithstanding Section 7.1 herein, where a Contravenor, or their authorized agent, fails to appear for a Hearing, the AMPS Manager may, at their discretion, schedule a new Hearing where the Contravenor, or their authorized agent, demonstrates the existence of extenuating circumstances, sufficient evidence of which must be provided to the AMPS Manager at the time of the request, that warrant the scheduling of a new Hearing. The Contravenor, or their authorized agent, must make such request within fifteen (15) days from the scheduled date of the Hearing.

#### **8.0 Extension of Time – Hearing**

- 8.1 If a Contravenor, or their authorized agent, has not requested a Hearing and/or has not paid the Administrative Monetary Penalty Amount, including any Administrative Fee(s), on or before the date that is fifteen (15) days from the date of the Screening Decision, the Contravenor, or their authorized agent, may make a request in writing to the AMPS Manager to:
- a) Schedule a Hearing; and/or
  - b) Extend the deadline to pay the Administrative Monetary Penalty, including any Administrative Fee(s).  
(a "Hearing Extension Request").
- 8.2 A Contravenor, or their authorized agent, must make a Hearing Extension Request on or before the date that is thirty (30) days from the date of the Screening Decision and must demonstrate the existence of extenuating circumstances and provide sufficient evidence in relation thereto (i.e. medical note, death certificate or financial records).
- 8.3 Upon receipt of a Hearing Extension Request, the AMPS Manager shall determine whether to:
- a) Approve the Hearing Extension Request, in which event a Hearing shall be scheduled and/or the deadline to pay the Administrative Monetary Penalty Amount, including any Administrative Fee(s), shall be extended, as the case may be; or

- b) Deny the Hearing Extension Request, in which event the Contravenor shall pay the Administrative Monetary Penalty Amount, plus any applicable Administrative Fee(s), within fifteen (15) days from the date of the AMPS Manager's denial of the Hearing Extension Request.

## **9.0 SERVICE OF DOCUMENTS**

9.1 The service of any document, notice or decision, including a Penalty Notice, pursuant to this By-law, when served in any of the following ways, is deemed effective:

- a) Immediately, when a copy is hand delivered to the Contravenor to whom it is addressed.
- b) For any Penalty Notice related to vehicle or traffic Contraventions, immediately upon the placement or to affixing of the Penalty Notice in any manner on the vehicle.
- c) On the seventh (7th) day following the date a copy is sent by registered mail or by regular mail to the Contravenor's last known address by mail or registered mail; or
- d) Upon sending a copy by electronic mail (i.e. email) to the Contravenor's last known electronic mail address.

9.2 Where this By-law requires service by a Contravenor on the City, service shall be addressed to the Clerk and shall be deemed effective:

- a) Immediately, when a copy is delivered by personal service to the Clerk at the location prescribed on the applicable form or notice.
- b) On the seventh (7th) day following the date a copy is sent by registered mail or by regular mail to the City Civic Centre 101 Town Centre Blvd, Markham, ON L3R 9W3; or
- c) Immediately upon sending a copy by electronic mail (i.e. email) to the City's electronic mail [amps@markham.ca](mailto:amps@markham.ca)

## **10.0 ADMINISTRATION**

10.1 The Clerk shall administer this By-law and establish and amend any additional practices, policies, and procedures necessary to implement this By-law as the Clerk deems necessary, without amendment to this By-law. The Clerk is hereby delegated the authority to amend the fine, penalty, and or fee amounts set out in the Designated By-laws, the tiered Administrative Monetary Penalty Amounts set out in Schedule "C" attached hereto, and the Administrative Fee(s) set out in Schedule "D" attached hereto, from time to time.

10.2 The Clerk shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this By-law and may amend such forms and notices as the Clerk deems necessary, without amendment to this By-law.

10.3 Any time limit that would otherwise expire on a Holiday is extended to the next business day that is not a Holiday.

## **11.0 FINANCIAL MATTERS**

11.1 Officers and others who are delegated to enforce this By-law and other Designated By-laws are not authorized to accept payment(s) of any Administrative Monetary Penalty Amount or Administrative Fee(s).

11.2 Where an Administrative Monetary Penalty Amount, including any Administrative Fee(s), remains unpaid after the Penalty Due Date:

- a) Such amount shall constitute a debt of the Contravenor to the City;

- b) The City may transfer such amount:
  - i. to a collection agency appointed by the City or
  - ii. to the tax roll for the Contravenor's Property located within the City of Markham where such amount shall be deemed to be unpaid taxes and collected in the same manner as municipal taxes, as the case may be; and/or
- c) In the case of a vehicular or traffic related Contravention, the City may notify the Ontario Ministry of Transportation (the "Ministry") of the default and a plate denial enforcement fee will be applied. The Ministry shall not validate the permit of the Person named in the notice of default nor issue a new permit to the Person until the Administrative Monetary Penalty Amount as well as any applicable Administrative Fee(s) have been paid to the City.

## **12.0 SEVERABILITY**

- 12.1 Should any provision, or any part of a provision, of this By-law be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of Council that such a provision, or part of a provision, shall be severed from this By-law, and every other provision of this By-law shall be applied and enforced in accordance with its terms to the extent possible according to law.

## **13.0 INTERPRETATION**

- 13.1 The provisions in Part VI of the Legislation Act, 2006, S.O. 2006, c.21, Sched. F shall apply to this By-law.

## **14.0 SHORT TITLE**

- 14.1 This By-law may be referred to as the AMPS (Administrative Monetary Penalty System) By-law.

## **15.0 EFFECTIVE DATE**

This By-law shall come into force and effect June 26, 2024

Read a first, second, and third time and passed June 26, 2024.

  
\_\_\_\_\_  
Kimberley Kitteringham  
City Clerk

  
\_\_\_\_\_  
Frank Scarpitti  
Mayor