

THE CORPORATION OF THE TOWN OF GRAVENHURST BY-LAW NO. 2022-103

Being a By-law to implement an Administrative Monetary Penalty System
within the Corporation of the Town of Gravenhurst

WHEREAS Section 23 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes the Town of Gravenhurst (the "Town") to delegate its administrative and hearing powers;

WHEREAS Section 102.1 of the Municipal Act and Ontario Regulation 333/07 authorize the Corporation of the Town 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 paragraph 151 (1) of the Municipal Act authorizes the Town 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 any part of a system of licenses established by the Municipality;

AND WHEREAS Section 391 of the Municipal Act authorizes the Town to pass by-laws imposing fees or charges for services or activities to be provided or done by or on behalf of it;

AND WHEREAS Section 434.1 of the Municipal Act authorizes the Town 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;

AND WHEREAS Section 15.4.1 of the Building Code Act, 1992, S.O. 1992, c.23 may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty;

AND WHEREAS the Council for the Town considers it desirable and necessary to provide for a system of Administrative Penalties and Administrative Fees for the designated Town By-laws;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

- a) **Administrative Fee** means any fee specified in Schedule 'B' of this By-law, as amended from time to time;
- b) **Administrative Penalty** means a monetary penalty set out in Schedule 'A' of this By-law for a contravention of a Designated By-law;
- c) **Court** means any court of law of the Province of Ontario, including but not limited to the Ontario Court of Justice, the Ontario Superior Court of Justice, and the Ontario Court of Appeal;

- d) **Designated By-law** means a by-law, or a part or provision of a by-law, that is designated under this or any other by-law, and is listed in the attached Schedule 'A' to which the AMPS applies;
- e) **Early Payment** means payment that is received within the first (7) seven calendar days of the issuance of an Administrative Monetary Penalty as set out within Section 3(5)(a) of this By-law and which is payable for contraventions of the designated provisions set out in Column A3 of Schedule 'A';
- f) **Fee – Hearing No-Show** means an Administrative Fee listed in Schedule 'B' in respect of a Person's failure to appear at the time and place scheduled for a hearing before a Hearing Officer;
- g) **Fee – MTO Plate Denial** means an Administrative Fee listed in Schedule 'B' as represented by the Ontario Ministry of Transportation, for notifying the Registrar of Motor Vehicles for the purpose of denying renewal of a vehicle permit;
- h) **Fee – MTO Search** means an Administrative Fee listed in Schedule 'B' for searching the records of the Ontario Ministry of Transportation;
- i) **Fee – Screening No-Show** means an Administrative Fee listed in Schedule 'B' in respect of a Person's failure to appear at the time and place scheduled for a review by the Screening Officer;
- j) **Hearing Officer** means a Person who performs the duties of a Hearing Officer in accordance with Section 6 of this By-law, and pursuant to the Town's Screening and Hearing Officer Policy;
- k) **Hearing Officer Appeal Form** means the form attached to the Screening Decision that may be filed by a Person under this By-law;
- l) **Officer** means a Municipal Law Enforcement Officers, a member of the Ontario Provincial Police, the Manager of By-law Services or their designate and any other Person as authorized by the Town to enforce this By-law;
- m) **Penalty Notice** means a notice issued pursuant to Section 3 of this By-law;
- n) **Penalty Notice Number** means the number specified on the Penalty Notice that is unique to that Penalty Notice;
- o) **Person** includes an individual or business name, sole proprietorship, corporation, partnership, or limited partnership or an authorized representative thereof, to whom the context apply according to law;

- p) **Screening Decision** means a notice that contains the decision made by a Screening Officer and delivered in accordance with Section 7 of this By-law;
- q) **Screening Officer** means a Person who performs the functions of a Screening Officer in accordance with Section 6 of this By-law, and pursuant to the Town's Screening and Hearing Officer Policy;
- r) **Set Penalty Amount** means the payment received no later than the (15th) fifteenth calendar day from the date of issuance of an Administrative Monetary Penalty, in accordance with Section 3(5)(b) of this By-law, that is payable for contraventions of the designated provisions listed in Column A3 of Schedule 'A';
- s) **Town** means The Corporation of the Town of Gravenhurst.

2. APPLICATION

- 2.1 The Designated By-laws, or portions of Designated By-laws, listed in Schedule 'A' of this By-law sets out the Administrative Penalties and may include short form language used on Penalty Notices for the contravention of Designated By-laws.
- 2.2 Fees imposed for the purposes of this By-law shall be set out in the Schedule 'B' of this By-law.
- 2.3 Any Designated By-law respecting the parking, standing or stopping of vehicles is designated for the purposes of paragraph 3(1)(b) of O. Reg. 333/07, s. 3(1), and Section 102.1 of the Municipal Act, 2001.
- 2.4 The Provincial Offences Act, R.S.O. 1990, c P.33, as amended, does not apply to a contravention of a Designated By-law O.Reg. 333/07, s.4.
- 2.5 Screening Officers and Hearing Officers conducting a review or appeal under this By-law do not have jurisdiction to consider any question relating to the validity of a statute, regulation or by-law including, but not limited to the constitutional applicability or operability of any statute, regulation, or by-law.

3. PENALTY NOTICE

- 3.1 Every Person who contravenes any designated provision of this By-law or each registered owner of that vehicle, when given a Penalty Notice in accordance with this By-law, shall be liable to pay to the Town an Administrative Penalty in the amount set out in Schedule 'A' and any related Administrative Fees as set out in Schedule 'B'.
- 3.2 Where the offence is continuous, each day the offence continues shall constitute a new and separate offence.

- 3.3** An Officer who has reason to believe that a Person has contravened any provision of this By-law may issue a Penalty Notice.
- 3.4** The Penalty Notice shall be given to the Person as soon as is reasonably practicable and shall include the information:
- a) The date of the Penalty Notice;
 - b) The Penalty Notice Number;
 - c) Particulars of the contravention;
 - d) The amount of the Administrative Penalty;
 - e) The identification number and signature of the issuing Officer;
 - f) Information respecting the process by which the Person may exercise their right to request a review of the Administrative Penalty; and
 - g) A statement advising that an Administrative Penalty will, unless cancelled pursuant to the review and appeal processes, constitute a debt of the Person to the Town.
- 3.5** The amount due for a Penalty Notice is:
- a) The Early Payment set out in Schedule 'A' for the related contravention if payment is received by the Town within seven (7) calendar days from the date of issue of the Penalty Notice in accordance with this By-law;
 - b) The Set Penalty Amount set out in Schedule 'A' for the related contravention if payment is received no later than the fifteenth (15th) calendar day from the date of receipt of the Penalty Notice in accordance with this By-law;

4. REVIEW BY SCREENING OFFICER

The following applies to the review of an Administrative Penalty by a Screening Officer:

- 4.1** A Person who is served with a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer and shall do so on or before the date on which the Administrative Penalty is due and payable.
- 4.2** If a Person has not requested a Screening Review on or before the date on which the Administrative Penalty is due and payable, the Person may request that the Screening Officer extend the time to request a review within thirty (30) days after the Penalty Notice Date, at which time the Administrative Penalty shall be deemed final.
- 4.3** Every Person who requests a review by a Screening Officer shall receive a Screening Decision, served on the Person in accordance with Section 6.
- 4.4** A Person's right to request a review with a Screening Officer, or to request an extension of time to request a review, are exercised by giving to the Town written notice of the request to review that includes:

- a) The Penalty Notice Number;
- b) The Person's mailing address and, if applicable, telephone number;
- c) In the case of a request to extend time to request a review, the reasons, if any for having failed to exercise the right to request a review within fifteen (15) days from the date the Penalty Notice was received;
- d) The reasons for which the review has been requested; and
- e) The Person's preference to:
 - i) Meet in-person with the Screening Officer for the purpose of the review; or
 - ii) Have the review undertaken by the Screening Officer in writing.

4.5 Written notice for a request to review shall be provided by completing the Screening Officer Review Form and delivering it to the Town in accordance with Section 7 of this By-law.

4.6 Where the Person requests to meet in-person with the Screening Officer in accordance with this by-law; the Person shall be provided no fewer than seven (7) calendar days' notice as provided by Section 6 of the date, time and place of the Screening Officer Review.

4.7 Where the Person requests to meet in-person with the Screening Officer in accordance with this By-law and the Person fails to appear at the time and place scheduled for a Screening Officer Review, or fails to remain at such place until the Screening Officer has made a Screening Decision respecting the Administrative Penalty, then:

- a) The Person shall be deemed to have abandoned the request for the review;
- b) The Administrative Penalty shall be deemed to be final;
- c) The Administrative Penalty shall not be subject to further review by a Hearing Officer; and
- d) The Person shall pay to the Town a Screening No-Show fee as indicated in Schedule 'B'.

4.8 On a review of the Administrative Penalty, the Screening Officer may in a Screening Decision:

- a) Affirm the Administrative Penalty;
- b) Cancel the Administrative Penalty;
- c) Reduce the Administrative Penalty to the Early Payment; or
- d) Extend the time for payment, including any Late Payment Administrative Fees.

4.9 A Screening Officer shall only cancel or reduce payment of an Administrative Penalty, or extend the time for payment of an Administrative Penalty in a Screening Decision under the following circumstances:

- a) A Person establishes, on a balance of probabilities, that the offence did not occur as alleged on the Penalty Notice; or
- b) The cancellation or reduction of an Administrative Penalty, or extended time for payment of an Administrative Penalty, including any Late Payment Administrative Fee, is necessary to reduce undue hardship.

4.10 Where a Person does not make a payment by the due date as determined by the Screening Officer in a Screening Decision, the Administrative Penalty will return to the Set Penalty Amount plus any applicable Administrative Fees.

4.11 A Person who has been served with a Screening Decision pursuant to this By-law may appeal the Screening Decision to a Hearing Officer and shall do so within fifteen (15) calendar days after the Screening Decision was issued.

4.12 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 a statute, regulation or by-law.

5. REVIEW BY HEARING OFFICER

The following applies to the review of a Screening Decision by a Hearing Officer:

- 5.1** A Person may request a Screening Decision by a Hearing Officer on or before the date on which the Administrative Penalty is due and payable for the Administrative Penalty listed in the Screening Decision.
- 5.2** If a Person has not requested a Hearing Review on or before the date on which the Administrative Penalty is due and payable, the Screening Decision shall be deemed final unless the Person requests, within thirty (30) calendar days after the Screening Decision was issued, that the Hearing Officer extend the time to review the Screening Decision.
- 5.3** A Person's right to review the Screening Officers Decision to a Hearing Officer, or request an extension of time to appeal, are exercised by giving to the Town written notice of the request to review that includes:
 - a) The Penalty Notice Number;
 - b) the Person's mailing address and, if applicable, telephone number;
 - c) in the case of a request to extend the time to review the Screening Review, the reasons, if any, for having failed to exercise the right to review within fifteen (15) days from the date the Screening Decision was issued; and
 - d) the reasons for which the review has been requested.

- 5.4** Written notice of the request to review or to request an extension of time to review is provided by completing the Hearing Officer Review Form and delivering it to the Town in accordance with Section 6 of this By-law.
- 5.5** The Person shall be given no fewer than seven (7) calendar days' notice as provided by Section 6 of the date, time and place of the hearing of the review by the Hearing Officer.
- 5.6** If the Person fails to appear at the time and place scheduled for the hearing of the review:
- a) The Person shall be deemed to have abandoned the review;
 - b) The Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be final and shall not be subject to any further review; and
 - c) The Person shall pay to the Town a Hearing No-Show Fee.
- 5.7** The Hearing Officer shall not make a determination with respect to a review of the Screening Decision where a Person appears unless they have given the Person an opportunity to be heard.
- 5.8** On a review of the Screening Decision, the Hearing Officer may:
- a) Affirm or deny the request to extend the time to review;
 - b) Affirm the Administrative Penalty;
 - c) Cancel the Administrative Penalty;
 - d) Reduce the Administrative Penalty to the Early Payment; or
 - e) Extend the time for payment, including any Late Payment Administrative Fees.
- 5.9** Every Person who requests a review by the Hearing Officer shall receive a Hearing Decision, served in accordance with Section 6 of this By-law.
- 5.10** The decision of the Hearing Officer is final and not subject to review, including review by any Court.
- 5.11** 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.
- 5.12** A Hearing Officer has no authority to consider questions relating to the validity of a status, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.
- 5.13** Every Person who receives an upheld decision in a review by the Hearing Officer in relation to a Penalty Notice issued through the Administrative Monetary Penalty System established by this By-law shall be responsible for an additional fee as set out in

Schedule 'B', for the purpose of the Town recovering administrative cost associated to the Hearing Officer Review.

6. SERVICE OF DOCUMENTS

- 6.1** The service on a Person of any document, notice, or decision, including but not limited to a Penalty Notice pursuant to this By-law, is deemed to have been served on the earliest of any of the following dates:
- a) When a copy is placed or affixed in any manner to a Person's vehicle;
 - b) When a copy is hand-delivered to the Person whom it is addressed;
 - c) When a copy is delivered regular mail to the Person whom it is addressed;
 - d) On the seventh (7th) calendar day following the date a copy is sent by regular mail to the Person's last known address; or
 - e) Immediately upon sending a copy by electronic mail (email) to the Person's last known electronic mail address.
- 6.2** Any notice or document to be given to the Town in respect of this By-law shall be in writing and delivered in any of the following manners:
- a) Personal delivery of a copy to the Town during its regular business hours to "AMPS Program, Legislative Services Department – Town of Gravenhurst, 3-5 Pineridge Gate Gravenhurst, ON P1P1Z3".

7. ADMINISTRATION

- 7.1** The Director of Legislative Services or their designate shall administer this By-law and establish any additional practices, policies, and procedures necessary to implement this By-law and may amend such practices, policies, and procedures from time to time, as the Director deems necessary, without amendment to this By-law.
- 7.2** The Director of Legislative Services or their designate shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this By-law and may amend such forms and notices from time to time, as the Director deems necessary, without amendment to this By-law.
- 7.3** The positions of Screening Officer shall not accept payment of an Administrative Penalty respecting a Penalty Notice.
- 7.4** Municipal Enforcement Officers shall not accept payment of an Administrative Penalty respecting a Penalty Notice.
- 7.5** Where an Administrative Penalty and any applicable Administrative Fee(s) are not paid by the date on which they are due and payable, the Town:

- a) May notify the Ontario Ministry of Transportation (the "Ministry") of the default after thirty (30) days, at which time the Ministry shall not validate the permit of the Person named in the notice or default nor issue a new permit to the Person until the Administrative Penalty and any applicable Administrative Fee(s) are paid to the Town; or,
- b) Shall deem the outstanding amount to be accounts receivable subject to a monthly interest service charge on all outstanding invoices after the due date; and/or
- c) Shall deem the outstanding amount to be unpaid taxes and shall be added to the tax roll and collected the same manner as municipal taxes.

7.6 Where the Town notifies the Ministry of a default under this By-law, the person shall pay any applicable administration fee(s) imposed by the Ministry.

7.7 Where an Administrative Penalty or Administrative Fee(s) are not paid within thirty (30) days after the date they become due and payable, each Person to whom the Penalty Notice was issued shall pay to the Town a Fee – MTO Plate Denial.

7.8 Where an Administrative Penalty is cancelled, any Administrative Fee(s) are also cancelled.

7.9 Once a Penalty Notice has been paid there is no further option for dispute.

8. SEVERABILITY

8.1 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.

9. INTERPRETATION

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

9.2 Where words and phrases used in this By-law are defined in the Highway Traffic Act, but not defined in this By-law, the definitions in the Highway Traffic Act shall apply to such words and phrases.

10. SHORT TITLE

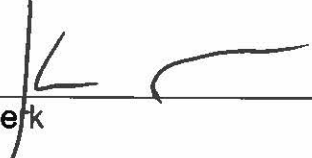
10.1 This By-law may be referred to as the AMPS By-law.

11. EFFECTIVE DATE

This By-law shall come into force and effect on the 1st day of January, 2023.

READ A FIRST, SECOND AND THIRD TIME and finally passed this 20th day of September, 2022.

Mayor 

Clerk 

**SCHEDULE 'A' to By-law No. 2022-103
ADMINISTRATIVE PENALTIES**

1. For the purposes of Section 3 of this By-law, Column A3 in the following table lists the provisions in the Designated By-law identified in the Schedule, as amended from time to time.
2. Column A4 in the following table sets out the short form wording to be used in a Penalty Notice for the contravention of the designated provisions listed in Column A3.
3. Column A5 in the following table sets out the Administrative Penalty for the Early Payment Amount in accordance with Section 4.5 (a) of this By-law that is payable for contraventions of the designated provision listed in Column A3.
4. Column A6 in the following table sets out the Administrative Penalty for the Set Penalty Amount in accordance with Section 4.5 (b) of this By-law that is payable for contraventions of the designated provisions listed in Column A3.

SCHEDULE 'A' Con't

A1 By-law	A2 Item #	A3 Section	A4 Description	A5 Early Payment (7 days)	A6 Set Penalty (15 days)
Short-Term Rental By-law 2022-058					
Short-term Rental By-law 2022-058	1.	2.1	Fail to park in an approved location	\$150.00	\$300.00
	2.	2.2 (a)	Fail to post the Town issued Short-Term Rental Accommodation License	\$500.00	\$1000.00
	3.	2.2 (b)	Fail to post the Renters Code of Conduct	\$500.00	\$1000.00
	4.	3.1 (a)	Fail to obtain a License	\$750.00	\$1500.00
	5.	3.1 (b)	Fail to comply with the Short-Term Rental Accommodation License terms and conditions	\$500.00	\$1000.00
	6.	3.1 (c)	Did advertise, promote, broker, or offer the use or occupation of a dwelling unit as a Short-Term Rental accommodation without a valid license	\$500.00	\$1000.00
	7.	3.2	Did permit for the use or occupation of a dwelling unit as a Short-Term Rental Accommodation in contravention of a Provincial Restriction or Order	\$750.00	\$1500.00
	8.	3.3	Did violate the Renter's Code of Conduct	\$500.00	\$1000.00
	9.	3.4	Did alter or modify a Town issued Short-Term Rental Accommodation License	\$500.00	\$1000.00

ADMINISTRATIVE PENALTIES

(* A late fee of \$100.00 will be applied for any penalty that exceeds the required payment with 30 days)

SCHEDULE 'B' to By-law No. 2022-103

ADMINISTRATIVE FEES

ITEM	FEE
Late Payment Fee	\$100.00
Screening No-Show Fee	\$250.00
Hearing No-Show Fee	\$350.00
MTO Plate Denial Fee	\$25.00
MTO Search Fee	\$15.00
Upheld Decision of Hearing Officer Fee	\$250.00