

**THE CORPORATION OF THE
TOWN OF PRESCOTT**

BY-LAW NO. 48-2021

A BY-LAW TO ESTABLISH A SYSTEM OF ADMINISTRATIVE PENALTIES FOR NON-COMPLIANCE WITH BY-LAWS OF THE TOWN OF PRESCOTT

Being a by-law to establish a system of administrative penalties for non-compliance with by-laws of the Town of Prescott

WHEREAS pursuant to Section 434.1 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended*, a municipality may require a person to pay an administrative penalty for failing to comply with a by-law of the municipality passed under the Municipal Act;

AND WHEREAS pursuant to section 102.1(1) of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended*, a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with by-laws related to the parking, standing or stopping of vehicles;

AND WHEREAS pursuant to Section 391 of the *Municipal Act, 2001, c.25, as amended* a municipality may impose fees or charges on persons for services provided or done by or on behalf of it;

AND WHEREAS the Council of the Corporation of the Town of Prescott deems it desirable and necessary to promote compliance with its by-laws through a system of administrative monetary penalties;

NOW THEREFORE the Council of the Corporation of the Town of Prescott enacts as follows:

DEFINITIONS

1.0 In this By-law:

- (a) "Administrative Fee" means any fee specified in Schedule "A" of this By-law or set out in the Fees and Charges By-Law.
- (b) "Administrative Penalty" means an administrative penalty established by this By-law as set out in the attached Schedule "B" for a contravention of a Designated By-law.
- (c) "By-Law Enforcement Officer" shall mean a municipal law enforcement officer of the Corporation of the Town of Prescott who is duly appointed by the Council of the Corporation for the purpose of enforcing the

provisions of the Corporation's By-laws.

- (d) "Chief Administrative Officer" means the Chief Administrative Officer for the Corporation of the Town of Prescott.
- (e) "Clerk" means the Clerk for the Corporation of the Town of Prescott.
- (f) "Council" means the Council of the Corporation of the Town of Prescott.
- (g) "Day" means any calendar day.
- (h) "Designated By-Law" means a by-law, or a part or provision of a by-law, that is designated for the purposes of this by-law in Schedule "B".
- (i) "Hearing" means a review of a Screening Decision by a Hearing Board.
- (j) "Hearing Non-appearance Fee" means an Administrative Fee established by Council from time to time in respect of a Person's failure to appear at the time and place scheduled for a review before a Hearing Board and listed in Schedule "A" attached.
- (k) "Hearing Decision" means a decision made by the Hearing Board following a Hearing.
- (l) "Hearing Board" means three members of the public that are eligible to vote in Municipal Elections for the Municipality of the Town of Prescott, that are duly appointed by Council to perform the functions of a Hearing Board in accordance with Part 4 of this By-law.
- (m) "Holiday" includes, New Years Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, and any day appointed by proclamation of the Governor General or Lieutenant Governor as a public holiday, and when any of these holidays falls on a weekend, the day that is appointed as such either prior or after.
- (n) "Late Payment Fee" means an Administrative Fee established by Council from time to time in respect of a Person's failure to pay an Administrative Penalty within the time prescribed by this By-law and listed in Schedule "A" attached.
- (o) "Manager" means the person from time to time occupying the office of the Manager of Building and By-law Services of the Corporation of the Town of Prescott, or such successor office as the case may be, and includes any individual who has been authorized to temporarily act during that person's absence or a vacancy in the office.
- (p) "Mitigating or Extenuating Circumstances" means situations that do not

provide an excuse or justify the infraction, but which in fairness and mercy may be considered as reducing the degree of responsibility.

- (q) "Municipality" means the Corporation of the Town of Prescott.
- (p) "Parking By-Law(s)" means any by-laws enacted by the Corporation of the Town of Prescott to regulate the parking, standing, or stopping of vehicles, identified as such in schedule "B".
- (q) "Penalty Notice" means a notice given to a Person pursuant to Part 2 of this By-law.
- (r) "Penalty Notice Date" means the date a Penalty Notice is issued by a By-Law Enforcement Officer or Police Officer
- (s) "Person" shall include an individual, partnership, company and corporation.
- (t) "Police Officer" means a Chief of Police or other Police Officer but does not include a Special Constable or By-law Enforcement Officer.
- (u) "Screening Non-appearance Fee" means an Administrative Fee established by Council from time to time in respect of a Person's failure to appear at the time and place scheduled for a review before a Screening Officer and listed in Schedule "A" attached.
- (v) "Screening Officer" means the Chief Administrative Officer of the Corporation of the Town of Prescott, who performs the functions of a Screening Officer in accordance with Part 3 of this By-law.

2.0 PENALTY NOTICE

- (a) A By-law Enforcement Officer or Police Officer who is satisfied that a Person has failed to comply with any provision of a Designated By-law may issue a Penalty Notice to that Person requiring the Person to pay an Administrative Penalty.
- (b) A Penalty Notice shall include the following information:
 - (i) the Penalty Notice Date;
 - (ii) a Penalty Notice Number that is unique to that Penalty Notice;
 - (iii) the date on which the Administrative Penalty is due and payable, which shall be a minimum of fifteen (15) days from the Penalty Notice Date.

- (iv) the identification number and signature of the By-Law Enforcement Officer or Police Officer;
 - (v) the short form wording describing the contravention wording as listed or referred to in Schedule “B” of this by-law or other particulars reasonably sufficient to indicate the contravention;
 - (vi) the amount of each Administrative Penalty and the total amount when more than one penalty has been imposed.
 - (vii) information respecting the process by which the Person may exercise the right to request a Screening Review of the Administrative Penalty;
 - (viii) a statement advising that an unpaid Administrative Penalty, including any applicable Administrative Fee(s), will constitute a debt of the Person to the municipality unless cancelled pursuant to Screening Review or Hearing process.
- (c) By-Law Enforcement Officers or Police Officers cannot accept payment for an Administrative Monetary Penalty. Officers may accept payment of an Administrative Penalty or Administrative Fee at the Municipal Office for events in which they were not involved.
 - (d) A Person who is served with a Penalty Notice shall pay the Administrative Penalty on or before the due date in the Penalty Notice, subject to the provisions of Section 3 and 4 of this By-law.

3.0 PARKING BY-LAWS

In addition to the requirements of Section 2 above, Penalty Notices for Parking By-law infractions are subject to the following:

- (a) A By-Law Enforcement Officer shall provide reasonable notice to the owner of a vehicle in respect of which a Penalty Notice is issued under a Parking By-Law, which notice may include personal service, notice by regular mail to the registered address of the owner of the vehicle, or such other means by which the notice is likely to come to the vehicle owner’s attention.
- (b) Subject to the right to request a review by a screening officer and hearing officer, if an administrative penalty related to Parking By-Laws is not paid within fifteen (15) days after the date that it becomes due and payable the municipality may file a certificate of default in a court of competent jurisdiction and, once filed, the certificate is deemed to be an order of the court and may be enforced in the same manner as an order of the court.

- (c) A certificate of default shall be in the form approved by the Attorney General.
- (d) Costs incurred in obtaining and enforcing the order shall be added to the order and collected under the order.
- (e) One certificate of default may be filed with the court in respect of two or more administrative penalties imposed on the same person.
- (f) If, after a certificate of default has been filed with the court, every penalty to which the certificate relates is paid in full the municipality shall,
 - (i) notify the court in writing; and
 - (ii) if a writ of execution has been filed with the sheriff, notify the sheriff in writing.
- (g) If an administrative penalty related to Parking By-Laws is not paid within fifteen (15) days after the date that it becomes due and payable to the municipality, the municipality may notify the Registrar of Motor Vehicles of the default and the Registrar shall not validate the permit of a person named in the default notice nor issue a new permit to that person until the penalty is paid.
- (h) Plate denial applies only to the permit related to the vehicle to which the administrative penalty relates.

4.0 REVIEW BY SCREENING OFFICER

- (a) 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, and in accordance with the process set out in Section 3(d).
- (b) 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 prior to the penalty due date request that the Screening Officer extend the time to request a Screening Review to a date that is no later than forty-five (45) days after the Penalty Notice Date, in accordance with the process set out in Section 3(d).
- (c) If a Person has not requested an extension of time for a Screening Review on or before forty-five (45) days after the Penalty Notice Date;
 - (i) the Person shall be deemed to have waived the right to request a Screening Review or request an extension of time for a Screening Review;

- (ii) the Administrative Penalty shall be deemed to be confirmed on the sixteenth (16th) day or the next business day following the Penalty Notice Date; and
 - (iii) the Administrative Penalty shall not be subject to any further review, including a review by any Court.
- (d) A Person's Request for a Screening Review or a request for an extension of time to request a Screening Review are exercised by:
 - (i) a submission on the prescribed form to the Screening Officer of a Request for Review by Screening Officer or a request for an extension of time to request a Screening Review; or
 - (ii) attending in person at the location listed on the Penalty Notice to make a Request for Review by the Screening Officer or a request for an extension of time to request a Screening Review; or
 - (iii) calling the telephone number listed on the Penalty Notice to make a Request for Review by the Screening Officer or a request for an extension of time to request a Screening Review.
 - (iv) Emailing the account listed on the Penalty Notice to make a Request for Review by the Screening Officer or a request for an extension of time to request a Screening Review.
- (e) A Request for Review by the Screening Officer or a request for an extension of time to request a Screening Review shall include the Penalty Notice Number and the Person's contact information.
- (f) A Screening Review shall only be scheduled, and an extension of time to request a Screening Review shall only be granted, by the Screening Officer if the Person makes the request within the time limits set out in Sections 3(a) or 3(b) of this Bylaw.
- (g) On request for an extension of time to request a Screening Review, the Screening Officer may only extend the time to request a Screening Review where the Person demonstrates, on a balance of probabilities, the existence of Mitigating or Extenuating Circumstances that warrant the extension of time.
- (h) Where an extension of time to request a Screening Review is not granted by the Screening Officer, the Administrative Penalty and any applicable Administrative Fee(s) are deemed to be confirmed on the due date set out in the Penalty Notice.
- (i) Upon receipt of a Request for Review by the Screening Officer within the

time limits set out in Sections 3(a) and 3(b) of this By-law, the Screening Officer shall schedule a Screening Review and shall notify the Person using the contact information provided on the Request for Review by the Screening Officer.

- (j) Where a Person fails to attend, in person or electronically at the time and place scheduled for a Screening Review:
 - (i) the Person shall be deemed to have abandoned the request for a Screening Review;
 - (ii) the Administrative Penalty as set out in the Penalty Notice shall be deemed to be confirmed on the sixteenth (16th) day or the next business day following the Penalty Notice Date;
 - (iii) the Administrative penalty shall not be subject to any further review, including a review by any Court; and,
 - (iv) the Person shall pay to the Municipality a Screening Non-appearance Fee and any other applicable Administrative Fee(s).
- (k) Upon conducting the Screening Review, the Screening Officer shall give the Person requesting the Review the opportunity to be heard before making a decision.
- (l) Upon conducting a Screening Review, the Screening Officer may:
 - (i) affirm the Administrative Penalty; or
 - (ii) cancel or reduce the Administrative Penalty and/or extend the time for payment of the Administrative Penalty, including any Administrative Fee(s), on the following grounds if established by the Person on the balance of probabilities:
 - (a) the Person did not contravene the Designated By-law(s) as described in the Penalty Notice;
 - (b) the existence of Mitigating or Extenuating Circumstances; or
 - (c) the cancellation, reduction or extension of time for payment of the Administrative Penalty, including any Administrative Fee(s), is necessary to relieve a clearly demonstrated financial hardship.

After a Screening Review by a Screening Officer, the Screening Officer shall deliver a Screening Decision to the Person, in

accordance with Part 6 of this Bylaw. The notice of decision shall include a statement that the Person is entitled to request a further review of the Screening Officer's decision by the Hearing Board.

- (n) 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.

5.0 REVIEW BY HEARING BOARD

- (a) A Person may make a Request for Review by the Hearing Board within 7 days of issuance of the Screening Decision.
- (b) A Person may request an extension of the time to submit a Request for Review by the Hearing Board provided such request is made within 6 days of issuance of the Screening Decision.
- (c) If a Person has not made a Request for Review by a Hearing Board in accordance with Section 4(a) or within the extended time established under section 4(b):
 - (i) the Person shall be deemed to have waived the right to Request a Review by the Hearing Board; and
 - (ii) the Administrative Penalty and any Administrative Fee(s) as set out in the Screening Decision shall be deemed to be confirmed; and
 - (iii) the Screening Decision and the Administrative Penalty shall not be subject to any further review, including review by any Court.
- (d) Person's Request for Review by a Hearing Board is exercised by:
 - (i) a submission on the prescribed form to the Corporation of the Town of Prescott for a Request for Review by the Hearing Board or a request for an extension of time to request a Hearing; or
 - (ii) attending in person at the location listed on the Screening Decision to make a Request for Review by the Hearing Board or a request for an extension of time to request a Hearing; or
 - (iii) calling the telephone number listed on the Screening Decision to make a Request for Review by the Hearing Board or a request for an extension of time to request a Hearing.

- (iv) Emailing the account listed on the Screening Decision to make a Request for Review by the Hearing Board or a request for an extension of time to request a Hearing.
- (e) A Request for Review by the Hearing Board or a request for an extension of time to request a Hearing shall include the Penalty Notice Number and the Person's contact information.
- (f) A Hearing shall only be scheduled by the Hearing Board if the Person makes the request within the time limits set out in Sections 4(a) or 4(b) of this By-law.
- (g) Upon receipt of a Request for Review by the Hearing Board within the time limits set out in Sections 4(a) and 4(b) of this By-law, the Hearing Board shall schedule a Hearing and shall notify the Person using the contact information provided on the Request for Review by the Hearing Board.
- (h) Where a Person fails to appear at the time and place scheduled for a Hearing:
 - (i) the Person shall be deemed to have abandoned the Request for Review by the Hearing Board;
 - (ii) the Screening Decision and the Administrative penalty and any Administrative Fee(s) shall be deemed to be confirmed;
 - (iii) the Screening Decision and the Administrative penalty and any Administrative Fee(s) shall not be subject to any further review, including a review by any Court; and,
 - (iv) the Person shall pay to the municipality a Hearing Non-appearance Fee, Late Payment Fee, and any other applicable Administrative Fee(s).
- (g) At a Hearing, the Hearing Board by majority decision, may:
 - (i) confirm the Screening Decision; or
 - (ii) cancel or reduce the Administrative Penalty and/or extend the time for payment of the Administrative Penalty, including any Administrative Fee(s), on the following grounds:
 - (1) where the Person establishes on the balance of probabilities that they did not contravene the Designated By-law(s) as described in the Penalty Notice;
 - (2) the existence of Mitigating or Extenuating Circumstances; or

- (3) where the Person establishes on the balance of probabilities that the cancellation, reduction or extension of time for payment of the Administrative Penalty, including any Administrative Fee(s), is necessary to relieve clearly demonstrated financial hardship.
- (h) A Hearing Board shall not make any decision respecting a review of a Screening Decision unless the Hearing Board has given the Person and a representative of the municipality an opportunity to be heard (orally or virtually) at the time and place schedule for the Hearing.
- (i) All Hearings by a Hearing Board shall be conducted in accordance with the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, as amended.
- (j) A Hearing Board 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.
- (k) After a Hearing is complete, the Hearing Board shall deliver a Hearing Decision to the Person, in accordance with Part 6.0 of this By-law.
- (l) The decision of the Hearing Board is final and is not subject to appeal.

6.0 PROHIBITED COMMUNICATION AND UNDUE INFLUENCE

- (a) No individual shall attempt to directly or indirectly communicate with or influence a Screening Officer or a member of the Hearing Board respecting the determination of an issue in a proceeding that is or will be pending before the Screening Officer or Hearing Board, except the Person who is entitled to be heard in the proceeding or the Person's lawyer or licensed representative, and only by the Person or the Person's lawyer or licensed representative during the Screening Review or Hearing Review in which the issue arises.
- (b) Nothing in Section 5(a) prevents a Screening Officer or Hearing Board from seeking or receiving legal advice from the Corporation of the Town of Prescott's legal counsel, under the guidance and direction of the Chief Administrative Officer.

7.0 SERVICE OF DOCUMENTS

- (a) 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:

- (i) immediately, when a copy is personally delivered to the Person to whom it is addressed;
 - (ii) where the Penalty Notice relates to the Parking By-laws, when a copy is placed on or affixed in any manner to a Person's vehicle;
 - (iii) on the seventh (7th) day following the date a copy is sent by registered mail or by regular mail to the Person's last known address; or
 - (iv) on the seventh (7th) day following the date a copy by electronic mail (i.e. email) was sent to the Person's last known electronic mail address.
- (b) For the purposes of administration of this By-law or any Designated By-law, a Person's last known address, facsimile number, and electronic mail address includes an address, facsimile number and electronic mail address provided by the Person to the Municipality as may be required by a form, practice, or policy under this By-law.

8.0 ADMINISTRATION

- (a) The Clerk, the Manager, or any individual designated by either for this purpose in writing, shall administer this By-law and establish any additional practices and procedures necessary to implement this By-law and may amend such practices and procedures from time to time as are necessary, without amendment to this By-law, provided that such practices and procedures are not in conflict, or are inconsistent with, this by-law.
- (b) The Manager may appoint as Screening Officers and Hearing Board members such individuals and on such terms as the Manager considers appropriate.
- (c) The Manager, or any individual designated by the Manager for this purpose in writing, shall prescribe all forms and notices, including the Penalty Notice, Request for Review by the Screening Officer and Request for Review by the Hearing Board, necessary to implement this By-law and may amend such forms and notices from time to time as necessary, without amendment to this By-law, provided that the contents of such forms and notices are not in conflict with, or inconsistent with, this by-law.
- (d) An Administrative Penalty, including any Administrative Fee(s), that is confirmed or reduced, or in respect of which the time for payment has been extended, remaining unpaid after the date when it is due and payable, constitutes a debt to the Municipality owed by the Person.
- (e) Where an Administrative Penalty is not paid by the date on which the

Administrative Penalty is due and payable, the Person shall pay to the municipality a Late Payment Fee, in addition to the Administrative Penalty and any applicable Administrative Fee(s).

- (f) Where a Person makes payments to the municipality of any Administrative Penalty, Administrative Fee(s) or Late Payment Fee(s), by negotiable instrument, for which there are insufficient funds available in the account on which the instrument is drawn, the Person shall pay to the municipality the NSF Fee set out in the Fees and Charges By-law.
- (g) Where an Administrative Penalty is cancelled by a Screening Officer or Hearing Board, any Administrative Fee(s) are also cancelled.
- (h) Any time limit that would otherwise expire on a Holiday or outside normal Town hours of Monday to Friday 8:30 am to 4:30 pm is extended to the next business day.
- (i) A Person claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the Screening Officer or the Hearing Board, as applicable.
- (j) Any unpaid Administrative Penalty owed to the Town, except for Administrative Penalties imposed for a breach of the Parking By-law, may be added to a property owned by the individual as a lien of priority status under the *Municipal Act* and may be collected in the same manner as property taxes.
- (k) Any schedule attached to this By-law forms part of this By-law.

The authority under this By-law to issue Administrative Penalties is in addition to any other rights the Municipality may have to enforce its By-laws, except that if a Penalty Notice is issued to a Person under this By-law, that Person shall not be charged with an offence in respect of the same contravention under the *Provincial Offences Act*.

8.0 DESIGNATED BY-LAW

Designated By-laws are those By-laws or portions thereof as set out in Schedule "B" to this By-law.

9.0 SEVERABILITY

Should any provision, or any part of a provision, of this By-law to be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of the Council that such provision, or any 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.

10.0 INTERPRETATION

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

11.0 EFFECTIVE DATE

This By-law shall come into force and effect on January 1, 2022.

READ AND PASSED, SIGNED AND SEALED THE 1st DAY OF NOVEMBER, 2021.

Mayor

Clerk

**By-law 48-2021
Schedule "A"**

1. For the purposes of this By-Law, Column 2 in the following table lists the provisions in By-Law 48-2021 identified in the Schedule, or as amended.
2. Column 3 in the following table sets out the short form wording to be used in a fee for the designated provisions listed in Column 2.
3. Column 4 in the following table sets out the Administrative Fee amount that is payable for the designated provisions listed in Column 2.

Administrative Fees under By-Law 48-2021

Item 1	Designated Provisions 2	Short Form Wording 3	Administrative Fee 4
1	3.0 (j)(iv)	Failing to appear before a screening officer	\$100.00
2	4.0 (h)(iv)	Failing to appear before a hearing board	\$200.00
3	7.0 (d)	Late Fee administrative charges	\$50.00
4	7.0 (e)	Returned payment or rejected transaction process.	\$50.00
5	7.0 (d)	Interest shall occur on any fee after the due date at a rate of 1.25% per month.	

**By-law 48-2021
Schedule "B"**

1. For the purpose of this By-Law, Column 2 shall list the known as name of the By-listed in Column 3.
2. Column 3 in the following table lists the Designated By-Law, as amended.
3. Column 4 in the following table sets out the purpose of the By-law listed in Column 3.
4. For the purpose of this bylaw, any fines or penalties listed in the table below shall be administered using the Administrative Monetary Penalties System as defined in the By-law.

Item 1	Known as By-law 2	By-Law # 3	By-Law Purpose 4
1	Parking	47-2017	A regulation of traffic and parking within the Town of Prescott
2	Animal Control	05-2021	A regulation to provide for the licensing, registering of animals and prohibiting their running at large, for regulating kennels and to regulate the keeping of animals within the Town of Prescott
3	Property Standards	47-2021	A regulation to prescribe the property standards within the Town of Prescott
4	Taxi	04-2014 as amended 38-2018	A regulation for licensing, regulating, and governing vehicles used for hire including owners and drivers of taxicabs, limousines and accessible taxicab service in the Town of Prescott.
5	Vacant Building	46-2021	A regulation to establish a system of registering and monitoring vacant buildings within the Town of Prescott.