

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2023 - 32

BEING A BY-LAW TO ESTABLISH A SYSTEM OF ADMINISTRATIVE MONETARY PENALTIES FOR NON-COMPLIANCE WITH BY-LAWS FOR THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

---

**WHEREAS** pursuant to sections 8, 9, and 10 of the *Municipal Act, 2001*, as amended, a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other *Act*.

**AND WHEREAS** section 434.1 (1) of the *Municipal Act, S.O. 2001, c.25*, as amended, without limiting Sections 9, 10, and 11, a Municipality may 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 passed under this *Act, 2017, c. 10, Sched. 1, s. 75*;

**AND WHEREAS** section 434.1 of the *Municipal Act, S.O. 2001, c.25*, as amended, without limiting sections 9, 10, and 11 a municipality may 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 passed under this *Act 2017, c 10, Sched. 1, s. 75*.

**AND WHEREAS** section 434.2 of the *Municipal Act, S.O. 2001, c.25*, as amended provides that an Administrative Monetary Penalty imposed by the Municipality on a person constitutes a debt of the person to the Municipality and may be added to the Owner's tax roll and collected in the same manner as property taxes;

**AND WHEREAS** section 15.4.1 (1) of the *Building Code Act, 1992 S.O. 1992, c.23*, as amended authorizes a Municipality to pass a By-law that may 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 section 15.1 of the *Building Code Act, 1992*, as amended, or an order of an Officer made under subsection 15.2 (2) or 15.3 or the *Building Code Act, 1992*, as amended;

**AND WHEREAS** section 102.1(1) of the *Municipal Act, S.O. 2001, c.25*, as amended, provides that a Municipality may require a person to pay an Administrative Penalty if the Municipality is satisfied that the person failed to comply with any By-Laws respecting the parking, standing or stopping of vehicles;

**AND WHEREAS** pursuant to section 391 of the *Municipal Act, S.O. 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 Province adopted the "Administrative Penalties" regulation, O.Reg 333/07, pursuant to section 429 (4) of the *Municipal Act, 2001*, as amended provides that a Municipality may establish a system of fines for offences under a By-law of the Municipality passed under this *Act, 2006, c. 32, Sched. A, s. 184*;

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

**AND WHEREAS** pursuant to Section 425 of the *Municipal Act, 2001*, as amended, a Municipality may pass By-laws providing a person who contravenes a By-law of the Municipality passed under this *Act* is guilty of an offence;

**AND WHEREAS** the Council of the Corporation of Magnetawan deems it desirable and necessary to implement an Administrative Monetary Penalty System (AMPS) including penalties and fees to enforce and seek compliance with By-laws or portions of By-laws through the AMPS;

**NOW THEREFORE BE IT ENACTED BY THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN AS FOLLOWS:**

**1.0 THAT** this By-law be cited as "The AMPS By-law"

**2.0 DEFINITIONS**

**Administrative (Monetary) Penalty (AMP)** means a financial penalty, commonly referred under an Administrative Monetary Penalty System (AMPS), authorized under Section 434.1 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, issued to person, owner, agent, or licensee who has contravened or failed to comply with any provision of a Municipal By-law.

**Agent** means a Person duly appointed by an Owner or the Municipality to act on their behalf.

**Hearing Officer** means a person who is the paralegal for the Municipality appointed as a Hearing Officer who, upon request, will administer appeals from the screening decision on an Administrative Monetary Penalty in accordance with the provisions of this By-law.

**Owner** means the registered Owner of the land and also includes a trustee acting on behalf of the registered Owner, the state of a registered Owner and a Person with a leasehold interest in the land.

**Person** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors, or other legal representatives of a Person to whom the context can apply, according to law.

**Screening Officer** means a person who is the CAO/Clerk and/or designate for the Municipality appointed as a Screening Officer who upon request of a person who has been issued an Administrative Penalty, will determine if the Administrative Penalty is correct on its face and determine if the Administrative Penalty was issued in accordance with this or any other By-law.

**3.0 PROCEDURAL REQUIREMENTS**

- (a) The individual issuing a penalty notice in respect of the contravention of a By-law, and/or any Municipal By-law is not permitted to accept payment in respect of the penalty.
- (b) A person who receives a penalty notice shall be given the right to request a review of the Administrative Penalty by a Screening Officer appointed by the Municipality for that purpose.
- (c) A person who receives notice of the decision of the Screening Officer shall, in such circumstances as may be specified in the Administrative Penalty By-law, be given the right to a review of the Screening Officer's decision by a Hearing Officer appointed by the Municipality for that purpose.
- (d) The Hearing Officer shall not make a determination with respect to a review of the Screening Officer's decision unless he or she has given the person who requested the review an opportunity to be heard.
- (e) The appointment of the Hearing Officer shall be consistent with the conflict of interest guidelines and the Hearing Officer shall conduct hearings in an impartial manner.
- (f) Neither a Screening Officer nor a Hearing Officer has jurisdiction 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.
- (g) The *Statutory Powers Procedure Act* applies to a review by a Hearing Officer.
- (h) Fees imposed for the purpose of this By-law shall be set out in the current Fees and Charges By-law, as amended from time to time.

#### **4.0 SERVICE OF DOCUMENTS**

- (a) The Municipality may serve any document under this By-law, including but not limited to a penalty notice, within thirty (30) days of becoming aware of an alleged offence of a Municipal By-law, by one (1) or more of the following;
- i. personally, to the person named on the notice;
  - ii. by leaving or posting the document at the person's last known address;
  - iii. by facsimile transmission (fax);
  - iv. electronic transmission (email)
  - v. registered or regular mail addressed to the person to whom the document is to be given as the person's last known address included in the property tax file and is deemed to be delivered five (5) days after date of mailing.
- (b) When a Penalty Notice is served under section 4, the date of issuance and effective date shall be one in the same.

#### **5.0 ADMINISTRATIVE PENALTY NOTICES**

- (a) Every Person who contravenes any of the provisions of this By-law and/or any Municipal By-law and every Director of a Corporation who concurs in such contravention by the Corporation is guilty of an offence and may be subject to an Administrative Penalty as an offence and conviction liable to a fine in keeping with the provisions of the *Provincial Offences Act*.
- (b) A By-law Enforcement Officer and/or designate, Fire Chief and/or designate, CAO/Clerk and/or designate, Treasurer and/or designate, and any other Officer of the Corporation may issue an Administrative Penalty to a person, owner, Corporation, agent, or their representative found in contravention of any provision of a Municipal By-law.
- (c) Any person who contravenes any provision of this By-law and/or any Municipal By-law shall, upon issuance of a penalty notice pursuant to Section 5(a), be liable to pay to the Municipality an Administrative Penalty in the amount as noted on the Penalty Notice, as approved in the current Fees and Charges By-law, as amended from time to time.
- (d) The penalty notice shall be given to the person to whom or to which it is addressed as soon as it reasonably practicable and shall include the following information:
- i. particulars of the contravention, including to which property it applies;
  - ii. the date of the contravention;
  - iii. the By-law that was contravened;
  - iv. the amount of the Administrative Penalty;
  - v. date that the payment is due;
  - vi. payment options;
  - vii. timelines for payment of the Administrative Penalty;
  - viii. timelines for appeal of the Administrative Penalty;
  - ix. a statement advising that an Administrative Penalty will constitute a debt to the Municipality if not paid.
- (e) A person who has been issued a penalty notice shall pay the Administrative Penalty within fifteen (15) days from the date the notice was issued.
- (f) A person who receives an Administrative Penalty may request the Administrative Penalty be reviewed by the Screening Officer.
- (g) A person who receives a ruling by a Screening Officer and is not satisfied with the ruling may request within fifteen (15) days of the Screening Officer decision to have the Administrative Penalty reviewed by a Hearing Officer.
- (h) The ruling by the Hearing Officer is considered final.
- (i) An Administrative Penalty that is deemed to be confirmed constitutes a debt to the Municipality and may be added to the tax roll of the property on which the offence occurred.

## **6.0 REVIEW BY SCREENING OFFICER**

- (a) A person who has been issued an Administrative Monetary Penalty may request within fifteen (15) days of the Administrative Monetary Penalty being issued for the purpose that the Administrative Penalty be reviewed by a Screening Officer.
- (b) If a person fails to attend at the date, time and place scheduled in accordance with subsection 6(a):
  - i. they are deemed to have waived their right to appeal;
  - ii. the Screening Officers decision is affirmed;
  - iii. the Administrative Penalty is payable no later than;
    - a. the date as determined by the Screening Officer;  
the date scheduled; or
    - b. thirty (30) days after the date of the Screening Officer's decision, whichever date is later.
- (c) The Screening Officer may request such information from a person as the Screening Officer considers relevant to a request to review.
- (d) After considering a request for review, a Screening Officer may decide to:
  - i. affirm the Administrative Penalty;
  - ii. cancel, reduce, or extend the time for payment of the Administrative Penalty, where the Screening Officer is satisfied that doing so would maintain the general intent and purpose of the Municipal By-law and that:
    - a. there is reason to doubt the alleged contravened of a Municipal By-law;
    - b. the person took all reasonable steps to prevent the contravention; or
    - c. the cancellation or extension of time for payment is necessary to relieve undue financial hardship.
- (e) The Screening Officer shall inform a person of their decision at the conclusion of a review.
- (f) The Screening Officer shall conduct hearing in an impartial manner

## **7.0 APPEAL TO HEARING OFFICER**

- (a) A person may appeal a Screening Officer's decision by submitting in writing to the Municipality of Magnetawan no later than fifteen (15) days after the date on which the Screening Officer's decision is given to them.
- (b) If a person fails to attend at the date, time, and place scheduled in accordance with subsection 7(a):
  - i. they are deemed to have waived their right to appeal;
  - ii. the Screening Officers decision is affirmed;
  - iii. the Administrative Penalty is payable no later than;
    - a. the date as determined by the Screening Officer;  
the date scheduled;
    - b. thirty (30) days after the date of the Screening Officer's decision, whichever date is later;
- (c) Despite section 7(a), a person may request that a Hearing Officer extend the time to appeal from fifteen (15) days to no later than thirty (30) days after the Screening Officer's decision has been given to them, if the person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that prevented the person from appealing in accordance with section 7(b).
- (d) The Hearing Officer may request such information from a person as the Hearing Officer considers relevant to considering an appeal.
- (e) After considering an appeal, including hearing from the parties, a Hearing Officer may decide to:
  - i. affirm the Administrative Penalty;

- ii. cancel or extend the time for payment of the Administrative Penalty where the Hearing Officer is satisfied that doing so would maintain the general intent and purpose of the Municipal By-law and that:
  - a. there is reason to doubt the person contravened the Municipal By-law;
  - b. the person took all reasonable steps to prevent the contravention; or
  - c. the cancelation or extension of time for payment is necessary to relieve undue financial hardship.
- (f) The Statutory Powers Procedure Act applies to the consideration of an appeal by a Hearing Officer.
- (g) In addition to anything else that is admissible as evidence at an appeal in accordance with the *Statutory Powers Procedure Act*, the following are admissible as evidence as proof of the facts certified in them, in the absence of evidence to the contrary;
  - i. a statement of an Officer respecting a contravention;
  - ii. a copy of a document, including but not limited to a photograph(s) taken by an Officer, respecting a contravention;
  - iii. a statement of an Officer that he or she served a document, with a date and method of service indicated.
- (h) If a Hearing Officer's decision affirms, extends the time to pay an Administrative Penalty, the Administrative Penalty is payable no later than;
  - i. the date as determined by the Hearing Officer;
  - ii. the date of the Hearing Officer's decision; or
  - iii. thirty (30) days after the Screening Officer's decision, whichever date is later.
- (i) A Hearing Officer shall give the written decision to the person at the conclusion of the hearing.
- (j) A Hearing Officer's decision is not subject to any further review and cannot be appealed.

## 8.0 ADMINISTRATION

- (a) The CAO/Clerk, or any individual designated by the Municipality shall administer this By-law and establish any additional policies and procedures necessary to implement this By-law and may amend such policies and procedures from time to time as they deem necessary, without amendment to this By-law.
- (b) The CAO/Clerk, their designate, or anyone designated by the Municipality 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 they deem necessary, without amendment to this By-Law.
- (c) The CAO/Clerk, their designate, or anyone designated by the Municipality shall establish and approve any additional policies, procedures, or By-laws for the appointment of Screening Officer(s) and Hearing Officer(s) for the purposes of the administration of this By-law, its Municipal By-laws, or portions thereof.

## 9.0 PENALTIES

- (a) Every person who contravenes a By-law enacted by the Corporation of the Municipality of Magnetawan may be subject to one of the following;
  - i. Administrative Penalty, as permitted under Section 434.1 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended;
  - ii. Set fines as permitted under the *Fire Protection and Prevention Act, 1197, S.O. 1997, c.4*, as amended;
  - iii. Set fines as permitted under *O. Reg. 213/07: Fire Code*;

- iv. Set fines as permitted under the *Provincial Offences Act*; and/or
  - v. Fees or additional charges included in the current Fees and Charges By-law, as amended from time to time.
- (b) Every Person, Owner, Director of a Corporation, or who concurs in such contravention by the Corporation, is guilty of an offence and may be subject to an Administrative Penalty or set fine.
- (c) Every person who contravenes any provision of a By-law enacted by the Corporation of the Municipality of Magnetawan is guilty of an offence pursuant to the provisions of the *Provincial Offences Act, R.S.O. 1190, Chapter P.33*, as amended, and upon conviction, a person is liable to a fine of not more than \$5,000, exclusive of costs.
- (d) Every person, other than a company who contravenes any provision of a By-law enacted by the Corporation of the Municipality of Magnetawan, and every Director of a Corporation who knowingly concurs in such contravention by the Corporation, is guilty of an offence and on conviction liable to a fine not exceeding \$25,000 for a first offence and \$50,000 for any subsequent offence.
- (e) Where a Corporation is convicted of an offence under this By-law, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.
- (f) Where a person has been convicted for an offence under a By-law enacted by the Corporation of the Municipality of Magnetawan by a court of competent jurisdiction, the court may in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any Act or thing by the person convicted directed toward the continuation or repetition of the offence.
- (g) Each day an offence occurs is considered a new offence.

**10.0 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.


**11.0 EFFECTIVE DATE**

This By-Law shall come into force and effect upon the date of passing.

**READ A FIRST, SECOND, AND THIRD TIME**, passed, signed and the Seal of the Corporation affixed hereto, this 2nd day of August 2023.

**THE CORPORATION OF THE  
MUNICIPALITY OF MAGNETAWAN**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
CAO/Clerk