



## By-law 2015-93

### A By-law to implement an Administrative Monetary Penalty System in Markham

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Whereas section 102.1 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (the "Municipal Act") and Ontario Regulation 333/07 (the "Regulation") authorize The Corporation of the City of Markham 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)(g) of the Municipal Act 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 any part of a system of licences established by the municipality; and,

Whereas sections 23.2, 23.3 and 23.5 of the Municipal Act authorize the City to delegate its administrative and hearing powers; and,

Whereas section 391 of the Municipal Act authorizes the City to pass by-laws imposing fees or charges for services or activities provided or done by or on behalf of it; and,

Whereas the Council for the City considers it desirable and necessary to provide for a system of administrative penalties and administrative fees for the designated City by-laws, or portions of the designated City by-laws; and,

Now Therefore the Council of The Corporation of the City of Markham enacts as follows:

#### 1. Definitions

1.0 In this By-law:

**"Administrative Fee"** means any fee specified in this By-law or set out in Schedule "B";

**"Administrative Penalty"** means an administrative penalty established by this By-law or set out in the attached Schedule "A" for a contravention of a Designated By-law;

**"AMPS"** means Administrative Monetary Penalty System;

**"City"** means The Corporation of the City of Markham;

**"Clerk"** means the City Clerk, her or his delegate, or anyone designated by the Clerk to perform duties pursuant to the Administrative Monetary Penalty System;

**"Council"** means the Council of the City;

**"Day"** means any calendar day;

**“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;

**“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 Officer** and listed in Schedule “B”;

**“Hearing Decision”** means a notice that contains a decision made by a **Hearing Officer**;

**“Hearing Officer”** means a person who performs the functions of a Hearing Officer in accordance with section 5 of this By-law, and pursuant to the **City’s** Screening and Hearing Officer By-law;

**“Holiday”** means a Saturday, Sunday, any statutory holiday in the Province of Ontario or any **Day** the offices of the **City** are officially closed for business;

**“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 in this By-law and listed in Schedule “B”;

**“MTO Fee”** means an **Administrative Fee** established by **Council** from time to time for any search of the records of, or any inquiry to, the Ontario Ministry of Transportation, or related authority, and listed in Schedule “B”;

**“NSF Fee”** means an **Administrative Fee** established by **Council** from time to time in respect of payment by negotiable instrument received by the **City** from a **Person** for payment of any **Administrative Penalty** or **Administrative Fee**, for which there are insufficient funds available in the account on which the instrument was drawn, as listed in Schedule “B”;

**“Officer”** means:

- (i) a Provincial Offences Officer of the **City** or other person appointed by or under the authority of a **City** by-law to enforce **City** by-laws; or
- (ii) a police officer employed by York Regional Police, Ontario Provincial Police or the Royal Canadian Mounted Police;

**“Penalty Notice”** means a notice given to a **Person** pursuant to section 3.0 of this By-law;

**“Penalty Notice Date”** means the date of the contravention specified on the **Penalty Notice**, in accordance with section 3.2 of this By-law;

**“Penalty Notice Number”** means the reference number specified on the **Penalty Notice** that is unique to that **Penalty Notice**, in accordance with section 3.2 of this By-law;

**“Person”** includes an individual or a business name, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof, whose name appears on the vehicle permit as provided by the Ontario Ministry of Transportation. If the vehicle permit consists of a vehicle portion and licence plate portion, and different Persons are named on each portion, the Person whose name appears on the licence plate portion, as provided by the Ontario Ministry of Transportation, is the Person for the purposes of this By-law;

**“Regulation”** means Ontario Regulation 333/07 under the Municipal Act;

**“Request for Review by Hearing Officer”** means the request which may be made in accordance with section 5 of this By-law for the review of a **Screening Decision**;

**“Request for Review by Screening Officer”** means the request made in accordance with section 4 of this By-law for the review of a **Penalty Notice**;

**“Review by Hearing Officer”** and **“Hearing”** mean the process set out in section 5 of this By-law;

**“Review by Screening Officer”** and **“Screening Review”** mean the process set out in section 4 of this By-law;

**“Screening Decision”** means a notice which contains the decision of a **Screening Officer**, delivered in accordance with Section 4.11 of this By-law;

**“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 “B”; and,

**“Screening Officer”** means a person who performs the functions of a **Screening Officer** in accordance with section 4 of this By-law, and pursuant to the **City’s** Screening and Hearing Officer By-law.

## 2. Application of this By-Law

2.0 The **City** by-laws, or portions of **City** by-laws, listed in the attached Schedule “A” of this By-law shall be **Designated By-laws** for the purposes of sections 102.1 and 151 of the Municipal Act and paragraph 3(1)(b) of the Regulation. The attached Schedule “A” sets out the **Administrative Penalty**, and may include short form language to be used on **Penalty Notices**, for the contraventions of **Designated By-laws**.

2.1 Schedule “B” of this By-law shall set out **Administrative Fees** imposed for the purposes of this By-law.

2.2 The Provincial Offences Act, R.S.O. 1990, c.P.33, as amended, does not apply to a contravention of a **Designated By-law**.

## 3. Penalty Notice

3.0 Every **Person** who is an owner of a vehicle in contravention of a **Designated By-law** shall upon issuance of a **Penalty Notice** be liable to pay the **City** an **Administrative Penalty** in the amount specified in the attached Schedule “A” to this By-law.

3.1 An **Officer** who has reason to believe that a vehicle has contravened any **Designated By-law** may issue a **Penalty Notice** as soon as reasonably practicable.

3.2 A **Penalty Notice** shall include the following information:

- (a) the vehicle licence plate number or vehicle identification number;
- (b) the **Penalty Notice Date**;

- (c) a **Penalty Notice Number**;
- (d) the date on which the **Administrative Penalty** is due and payable;
- (e) the identification number and signature of the **Officer**;
- (f) the contravention wording as listed in the attached Schedules, or other particulars reasonably sufficient to indicate the contravention;
- (g) the amount of the **Administrative Penalty**;
- (h) such additional information as the Clerk determines is appropriate, respecting the process by which a **Person** may exercise the right to request a **Screening Review** of the **Administrative Penalty**; and
- (i) a statement advising that an unpaid **Administrative Penalty**, including any applicable **Administrative Fee(s)**, will constitute a debt of the **Person** to the **City** unless cancelled pursuant to **Screening Review** or **Hearing** process.

3.3 In addition to the service methods provided in section 6 "Service of Documents" of this By-law, an **Officer** may serve the **Penalty Notice** on a **Person** by:

- (a) affixing it to the vehicle in a conspicuous place at the time of the contravention; or
- (b) delivering it personally to the person having care and control of the vehicle at the time of the contravention.

3.4 No **Officer** may accept payment of an **Administrative Penalty** or **Administrative Fee**.

3.5 A **Person** who is served with a **Penalty Notice** and who does not pay the amount of the **Administrative Penalty** on or before the date on which the **Administrative Notice** is due and payable, shall also pay the **City** any applicable **Administrative Fee(s)**.

#### 4. Review by Screening Officer

4.0 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 4.3.

4.1 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 **Clerk** 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 4.3.

- 4.2 A **Person's** right to request an extension of time for a **Screening Review** expires, if it has not been exercised, on or before forty-five (45) days after the **Penalty Notice Date**, at which time:
- (a) 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**;
  - (b) the **Administrative Penalty** shall be deemed to be confirmed on the sixteenth (16<sup>th</sup>) day following the **Penalty Notice Date**; and
  - (c) the **Administrative Penalty** shall not be subject to any further review, including a review by any Court.
- 4.3 A **Person's Request for Review by Screening Officer** or request for an extension of time to request a **Screening Review** are exercised by:
- (a) a submission in writing to the **Clerk** of a **Request for Review by Screening Officer** or request for an extension of time to request a **Screening Review**; or
  - (b) attending in person at the location listed on the **Penalty Notice** to make a **Request for Review by Screening Officer** or to request an extension of time to request a **Screening Review**; or
  - (c) calling the telephone number listed on the **Penalty Notice** to make a **Request for Review by Screening Officer** or to request an extension of time to request a **Screening Review**.
- 4.4 A **Request for Review by Screening Officer** of an **Administrative Penalty** 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.
- 4.5 A **Request for Review by Screening Officer** or a request for an extension of time to request a **Screening Review** shall only be scheduled by the **Clerk** if the **Person** makes the request on or before the dates established by Sections 4.0 or 4.1 of this By-law.
- 4.6 On a request for an extension of time to request a **Screening Review**, the **Clerk** may only extend the time to request a **Screening Review** where the **Person** demonstrates, on a balance of probabilities, the existence of extenuating circumstances that warrant the extension of time.
- 4.7 Where an extension of time to request a **Screening Review** is not granted by the **Clerk**, the **Administrative Penalty** and any applicable **Administrative Fee(s)** are deemed to be confirmed.
- 4.8 Where a **Person** fails to attend at the time and place scheduled for a **Screening Review** of an **Administrative Penalty**:
- (a) the **Person** shall be deemed to have abandoned the request for a **Screening Review** of the **Administrative Penalty**;
  - (b) the **Administrative Penalty** as set out in the **Penalty Notice** shall be deemed to be confirmed on the sixteenth (16<sup>th</sup>) day following the **Penalty Notice Date**;
  - (c) the **Administrative Penalty** shall not be subject to any further review, including a review by any Court; and

- (c) the **Person** shall pay to the **City** a **Screening Non-appearance Fee, MTO fee**, if applicable, and any other applicable **Administrative Fee(s)**.

4.9 On a review of an **Administrative Penalty**, the **Screening Officer** may:

- (a) affirm the **Administrative Penalty**; or
- (b) cancel, reduce or extend the time for payment of the **Administrative Penalty**, including any **Administrative Fee(s)**, on the following grounds:
  - (i) where the **Person** establishes on the balance of probabilities that the vehicle did not contravene the **Designated By-law(s)** as described in the **Penalty Notice**; or
  - (ii) where the **Person** establishes on a 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 any undue hardship.

4.10 On a **Screening Review** of an **Administrative Penalty**, before making a decision, a **Screening Officer** shall conduct an interview with the **Person**.

4.11 After a **Review by Screening Officer**, the **Screening Officer** shall deliver a **Screening Decision** to the **Person**, in accordance with Section 6 of this By-law.

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 any statute, regulation or by-law.

## **5. Review by Hearing Officer**

5.0 A **Person** may **Request a Review by Hearing Officer** during the **Screening Review**.

5.1 If a **Person** has not made a **Request for Review by Hearing Officer** at the time of the **Screening Review**, the **Person** may make a **Request for Review by Hearing Officer** before the due and payable date for the **Administrative Penalty** listed on the **Screening Decision**.

5.2 The **Person's** right to **Request for Review by Hearing Officer** expires if it has not been exercised on or before the due and payable date for the **Administrative Penalty** listed on the **Screening Decision**, at which time:

- (a) the **Person** shall be deemed to have waived the right to **Request for Review by Hearing Officer**;
- (b) the **Screening Decision** and the **Administrative Penalty** and any **Administrative Fee(s)**, if applicable, as modified in the **Screening Decision**, shall be deemed to be confirmed; and

- (c) the **Screening Decision** and **Administrative Penalty** shall not be subject to any further review, including a review by any Court.

5.3 A **Person's Request for Review by Hearing Officer** is exercised by:

- (a) a submission in writing to the **Clerk** for a **Request for Review by Hearing Officer** or request for an extension of time to request a **Hearing**; or
- (b) attending in person at the location listed on the **Screening Decision** to make **Request for Review by Hearing Officer** or request an extension of time to request a **Hearing**; or
- (c) calling the telephone number listed on the **Screening Decision** to make a **Request for Review by Hearing Officer** or request an extension of time to request a **Hearing**.

5.4 A **Request for Review by Hearing Officer** shall only be scheduled by the **Clerk** if the **Person** makes the request within the time limits set out in sections 5.0 or 5.1 of this By-law.

5.5 Where a **Person** fails to appear at the time and place scheduled for a **Hearing**:

- (a) the **Person** shall be deemed to have abandoned the **Hearing** for review of a **Screening Decision**;
- (b) the **Screening Decision** and the **Administrative Penalty** and any **Administrative Fee(s)** shall be deemed to be confirmed;
- (c) 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
- (d) the **Person** shall pay to the **City** a **Hearing Non-appearance Fee**, **Late Payment Fee**, **MTO Fee** if applicable and any other applicable **Administrative Fee(s)**.

5.6 On a review of a **Screening Decision**, the **Hearing Officer** may:

- (a) confirm the **Screening Decision**; or
- (b) cancel, reduce or extend the time for payment of the **Administrative Penalty**, including any **Administrative Fee(s)**, on the following grounds:
  - (i) where the **Person** establishes on a balance of probabilities that the vehicle did not contravene the **Designated By-law(s)** as described in the **Penalty Notice**; or
  - (ii) where the **Person** establishes on a 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 any undue hardship.

5.7 A **Hearing Officer** shall not make any decision respecting a review of a **Screening Decision** unless the **Hearing Officer** has given the **Person** and a representative of the **City** an opportunity to be heard at the time and place scheduled for the **Hearing**.

- 5.8 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.
- 5.9 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.
- 5.10 After a **Hearing** is complete, the **Hearing Officer** shall deliver to the **Person** a **Hearing Decision**, in accordance with Section 6 of this By-law.
- 5.11 The decision of a **Hearing Officer** is final.

## 6. Service of Documents

- 6.0 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 delivered to the **Person** to whom it is addressed;
  - (b) on the seventh (7<sup>th</sup>) **Day** following the date a copy is sent by registered mail or by regular mail to the **Person's** last known address;
  - (c) immediately upon the conclusion of a copy by facsimile transmission to the **Person's** last known facsimile transmission number; or
  - (d) immediately upon sending a copy by electronic mail (i.e. email) to the **Person's** last known electronic mail address.
- 6.1 For the purposes of subsections 6.0 (b), (c) and (d) of this 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 **City** as may be required by a form, practice or policy under this By-law.

## 7. Administration

- 7.0 The **Clerk** 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 **Clerk** deems necessary, without amendment to this By-law.
- 7.1 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 from time to time as the **Clerk** deems necessary, without amendment to this By-law.
- 7.2 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 **City** owed by the **Person**.



- 7.3 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 City a **Late Payment Fee**, in addition to the **Administrative Penalty** and any applicable **Administrative Fee(s)**.
- 7.4 Where an **Administrative Penalty**, and any applicable **Administrative Fee(s)** or **Late Payment Fee(s)**, are not paid within thirty (30) Days after becoming due and payable, the City may notify the Ontario Ministry of Transportation (the "Ministry") of the default and 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 Penalty** and any applicable **Administrative Fee(s)** and **Late Payment Fee(s)** are paid to the **City**.
- 7.5 Where the **City** notifies the Ministry of a default under this By-law, the **Person** shall pay any applicable administrative fee(s) imposed by the Ministry.
- 7.6 Where a **Person** makes payments to the **City** 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 was drawn, the **Person** shall pay to the **City** the **NSF Fee** set out in the **City's** Fee By-law.
- 7.7 Where an **Administrative Penalty** is cancelled by a **Screening Officer** or **Hearing Officer**, any **Administrative Fee(s)** are also cancelled.
- 7.8 Any time limit that would otherwise expire on a **Holiday** is extended to the next day that is not a **Holiday**.
- 7.9 A **Person** claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the **Clerk**, the **Screening Officer** or the **Hearing Officer**, as applicable.
- 7.10 Any schedule attached to this By-law forms part of this By-law.

## **8. Severability**

- 8.0 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**

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


**10. Short Title**

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

**11. Effective Date**

11.0 This By-law shall come into force and effect on the day it is passed.

Read a first, second, and third time and passed on June 15 and 16, 2015.



Martha Pettit  
Deputy Clerk



Frank Scarpitti  
Mayor

**Schedule “A”**

**Administrative Monetary Penalty System By-Law**

**Designated Provisions for Parking By-Law 2005-188**

- 1. For the purposes of section 2 of this By-law, Column 2 in the following table lists the provisions in the Designated By-law identified in the Schedule, as amended.
- 2. Column 3 in the following table set out the short form wording to be used in a Penalty Notice for the contravention of the designated provisions listed in Column 2.
- 3. Column 4 in the following table set out the Administrative Penalty amount that is payable for contraventions of the designated provisions listed in Column 2.

Designated By-Law # 2005-188, as amended			
Column 1 Item	Column 2 Designated Provisions	Column 3 Short Form Wording	Column 4 Administrative Penalty Amount
1	2	Park motor vehicle other than right hand side to highway	\$ 40.00
2	3(a)	Park parallel more than 15 cm from curb or edge of highway	\$ 40.00
3	3(b)	Park other than parallel to the curb or edge of highway	\$ 40.00
4	4(a)	Angle park other than 45 degrees from curb	\$ 40.00
5	4(b)	Angle park outside of designated parking space	\$ 40.00
6	5(a)	Park on highway within 9m of any intersection	\$ 40.00
7	5(b)	Park on highway within 15m of signalized intersection	\$ 40.00
8	5(c)	Park on highway within 3m of fire hydrant	\$ 100.00
9	5(d)	Park to obstruct private roadway	\$50.00
10	5(e)	Park to obstruct sidewalk	\$ 50.00
11	5(f)	Park to obstruct any portion of crosswalk	\$ 40.00
12	5(g)	Park so as to interfere with the movement of traffic	\$ 40.00
13	5(h)	Park so as to interfere with snow removal	\$ 100.00
14	5(i)	Park between 2:30 a.m. and 6:00 a.m.	\$ 50.00
15	5(j)	Park on boulevard	\$ 40.00
16	5(k)	Park within 152m of active fire fighting apparatus	\$ 100.00
17	5(l)	Park to close to fire hall entrance	\$ 100.00

Designated By-Law # 2005-188, as amended			
Column 1 Item	Column 2 Designated Provisions	Column 3 Short Form Wording	Column 4 Administrative Penalty Amount
18	5(m)	Park on a bridge	\$ 40.00
19	5(n)	Park on a public laneway	\$ 40.00
20	5(o)	Park within 6m of a bus stop	\$ 40.00
21	5(r)	Park on a median	\$ 40.00
22	6	Park in a prohibited location	\$ 40.00
23	7	Park in excess of permitted maximum parking time period	\$ 40.00
24	8	Stop in prohibited location	\$ 40.00
25	9(3)	Park in fire access route	\$ 100.00
26	10(2)	Park on private property without consent of owners	\$ 40.00
27	10(4)	Park on town/local board property where public parking is not authorized	\$ 40.00
28	10(5)	Park on public property for longer than 48 hours	\$ 40.00
30	12	Park in School Bus Loading Zone	\$ 40.00
31	13	Park commercial vehicle in residential zone	\$ 40.00
32	14(8)	Park in Permit Parking longer than 48 hours	40.00
33	14(9)	Park in inoperative vehicle in Permit Parking	\$ 40.00
34	14(10)	Park – fail to hang parking permit from rear view mirror in permit parking area in designated times	\$ 40.00
35	15(2)	Park at expired parking meter	\$ 40.00
36	15(5)	Park at parking meter beyond specified times	\$ 40.00
37	15(6)	Park at parking meter outside permitted times	\$ 40.00
38	15(7)	Park within two spaces and fail to pay for both meters	\$ 40.00
39	15(9)	Park in parking meter space where prohibited	\$ 40.00
40	16(2)	Park in Parking Machine Control without valid displayed receipt	\$ 40.00
41	16(4)	Park- fail to property display a parking Control Machine receipt	\$ 40.00
42	16(5)	Park in parking Machine Control space not within permitted time	\$ 40.00

Designated By-Law # 2005-188, as amended			
Column 1 Item	Column 2 Designated Provisions	Column 3 Short Form Wording	Column 4 Administrative Penalty Amount
43	16(6)	Park in Parking Machine Control beyond maximum period allowed	\$ 40.00
44	16(7)	PARK IN PARKING Machine Control not wholly within a delineated space	\$ 40.00
45	17	Park in taxi stand	\$ 40.00
46	18(1)	Park in Daytime Permit Parking without a permit	\$ 40.00

**Schedule “B”**  
**Administrative Monetary Penalty System By-Law**  
**Administrative Fees**

The table below lists the Administrative Fees as defined in Section 1.0 of this By-law.

Administrative Fee Description	Fee Amount
MTO Fee	\$10.00
Late Payment Fee	\$25.00
Screening Non-appearance Fee	\$50.00
Hearing Non-appearance Fee	\$100.00
Note: Fees listed in Schedule “B” to this By-law will be subject to Harmonized Sales Tax (H.S.T.) where applicable.	