

**TOWNSHIP OF SOUTH FRONTENAC  
BY-LAW 2020-25**

**BEING A BY-LAW TO PROHIBIT PEDESTRIANS FROM STANDING AND/OR  
LOITERING AT ALL TIMES ALONG MUNICIPAL HIGHWAYS WITHIN THE  
CONFINES OF THE DEVIL LAKE CAUSEWAY ON PERTH ROAD**

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**WHEREAS** the Municipal Act, 2001, as amended, permits municipalities to enact by-laws under the category of "broad powers" relating to the health, safety and well-being of residents of South Frontenac, and under the category of "spheres of jurisdiction" namely highways, including parking and traffic on municipal highways,

**AND WHEREAS** the Council of the Corporation of the Township of South Frontenac deems it necessary and expedient to prohibit the stopping and/or standing on the Devil Lake Causeway to protect the health and safety of pedestrians and vehicular travel,

**AND WHEREAS** Section 434.1 (1) of the Municipal Act, 2001, provides that without limiting sections 9, 10 and 11, a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles. 2006, c. 32, Sched. A, s. 45.

**DEFINITIONS:**

**Director** - shall mean the Chief Administrative Officer or his/her designate.

**Screening Officer** - shall mean the "Clerk"

**Hearing Officer** - shall be an impartial person outside of the organization and shall be appointed by the Director when required

**NOW THEREFORE BE IT RESOLVED THAT**

**1. No Standing or Loitering**

- 1.1. No person shall stand or loiter at any time on either side of the Devil Lake Causeway, located on Perth Road 1200 metres south of Tett Crescent southerly 150 metres and further defined in Schedule A attached to this by-law.
- 1.2. Any person who contravenes this By-law is guilty of an offence and upon conviction is liable to a minimum fine of \$300 and a maximum fine of \$5,000.
- 1.3. Any person who contravenes this By-law is liable to pay an Administrative Monetary Penalty in an amount not to exceed \$500, in accordance with this By-law, provided that an offence notice has not been issued for the same person for the same offence on the same day.

**2. Administrative Monetary Penalty Notice**

- 2.1. Each Person who contravenes this By-law shall, if given an Administrative Monetary Penalty Notice (hereinafter referred to as "Penalty Notice") in accordance with section 3, be liable to pay to the Township of South Frontenac (hereinafter the "Township") an Administrative Penalty in an amount not to exceed \$500, for each day or part of a day on which the contravention continues.

- 2.2. Any person designated to enforce this By-law (hereinafter an "Officer") who has reasonable grounds to believe that a person has contravened any provision of this By-law may give to the person a Penalty Notice.
- 2.3. The Penalty Notice shall be given to the person as soon as is reasonably practicable after the contravention has occurred and shall include the following information:
  - a. the date the Penalty Notice is given;
  - b. a reference number that is unique to that Penalty Notice;
  - c. particulars of the contravention, including the date and location of the contravention, and the person(s) to whom the Penalty Notice is being given;
  - d. the monetary amount of the Administrative Penalty;
  - e. such information as the Director determines is appropriate respecting the process by which the Person may exercise the Person's right to request a review of the Administrative Penalty; and
  - f. a statement advising that an Administrative Penalty will, unless cancelled or reduced pursuant to the review and appeal processes, constitute a debt of the Person to the Township.
- 2.4. A person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer pursuant to section 3.

### **3. Review by Screening Officer**

- 3.1. Section 3 applies to reviews of an Administrative Penalty by a Screening Officer.
- 3.2. A person's right to request a review expires if it has not been exercised in the manner prescribed in section 3.4 before 4:30 p.m. on the fifteenth (15<sup>th</sup>) day after the Penalty Notice is deemed to have been received pursuant to section 5.
- 3.3. A person's right to request an extension of the time to request a review expires if it has not been exercised in the manner prescribed in section 3.4 before 4:30 p.m on the tenth (10<sup>th</sup>) day after the date the Penalty Notice is deemed to have been received pursuant to section 5, at which time:
  - a. the person shall be deemed to have waived the right to request a review;
  - b. the Administrative Penalty shall be deemed to be affirmed; and
  - c. the Administrative Penalty shall not be subject to review, including review by any Court.

No extension granted under this section will extend beyond the forty-second (42<sup>nd</sup>) day after the date receipt of the Penalty Notice is deemed to have occurred pursuant to section 5.

- 3.4. A person's rights to request a review and to request an extension of time to request a review are exercised by giving to the Township written notice of the request to review that includes:
  - a. the Penalty Notice Number;

- b. the person's mailing address and, if applicable, facsimile transmission number and/or e-mail address;
  - c. in the case of a request to extend the time to request a review, the reasons, if any, for having failed to exercise the right to request a review within the time limited by section 3.2; and
  - d. particulars of all grounds upon which the request to review is based.
- 3.5. The Screening Officer shall undertake the review in writing upon receipt of the request for review and may request further information from the person requesting the review as needed, and any time limit for the review may be adjusted in the Screening Officer's sole discretion.
- 3.6. The Screening Officer may
- a. receive submissions from the Officer who issued the Penalty Notice under review; and
  - b. 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 this By-law and that:
    - (i) there is reason to doubt that the person contravened this By-law; or that
    - (ii) the person took all reasonable steps to prevent the contravention; or that
    - (iii) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.
- 3.7. The Screening Decision shall be given to the person in writing as soon as is reasonably practicable.
- 3.8. The person may appeal to a Hearings Officer against the Screening Decision pursuant to section 4.

#### **4. Appeal to Hearings Officer**

- 4.1. Section 4 applies to appeals to a Hearings Officer against Screening Decisions:
- 4.2. The right to appeal is limited to the following:
- a. a person who has been given a Screening Decision; and
  - b. the Director.
- 4.3. A Person's right to appeal expires if it has not been exercised in the manner prescribed in section 4.5 before 4:30 p.m. on the fifteenth (15<sup>th</sup>) day after the Screening Decision Date.
- 4.4. A person's right to request an extension of the time to appeal expires if it has not been exercised in the manner prescribed in section 4.5 before 4:30 p.m. on the tenth (10<sup>th</sup>) day after the Screening Decision Date at which time:
- a. the person shall be deemed to have waived the right to appeal;
  - b. the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed; and

- c. the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court.

No extension granted under this section will extend beyond the forty-second (42<sup>nd</sup>) day after the Screening date.

- 4.5. A right to appeal is exercised by giving to the Township written notice of the appeal that includes:
  - a. the Penalty Notice Number;
  - b. the person's mailing address and, if applicable, facsimile transmission number and/or e-mail address;
  - c. in the case of a request to extend the time to appeal, the reasons, if any, for having failed to exercise the right to appeal within the time limited by section 4.3; and
  - d. particulars of all grounds upon which the appeal is made.
- 4.6. The person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- 4.7. Where the Person fails to appear at the time and place scheduled for a hearing of the appeal:
  - a. the Person shall be deemed to have abandoned the appeal;
  - b. the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed;
  - c. the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court; and
  - d. the person shall pay to the Township an additional Fee for failure to appear in the amount of \$100.
- 4.8. Except in the case of a person who is deemed to have abandoned their appeal, a Hearings Officer shall not make any decision respecting an appeal unless the Hearings Officer has given each of the person, the Director and the Officer who gave the Penalty Notice an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- 4.9. Subject to sections 4.4, 4.7 and 4.8, a Hearings Officer may:
  - a. extend the time to request an appeal; and may
  - b. make any decision that the Screening Officer could have made pursuant to this By-law.
- 4.10. The decision of a Hearings Officer is final and not subject to review including review by any Court.

## **5. Notice**

- 5.1. Subject to section 5.3, any notice or document respecting this By-law, including the Penalty Notice, may be given in writing in any of the following ways and is effective:

- a. when a copy is placed on or affixed in any manner to a Person's vehicle;
  - b. when a copy is delivered to the person to whom it is addressed;
  - c. on the third (3<sup>rd</sup>) day after a copy is sent by registered mail or by regular lettermail to the person's last known address;
  - d. upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
  - e. upon the sending of the notice or document or a copy thereof by e-mail transmission to the person's last known e-mail address.
- 5.2. For the purpose of section 5.1, a person's last known address, last known facsimile transmission number and last known e-mail address are deemed to include those provided by the person pursuant to paragraphs 3.4(b) and 4.5(b).
- 5.3. Any notice or document respecting this By-law to be given to the Township shall be in writing, shall be given in any of the following ways, and is effective:
- a. when a copy is delivered to the Clerk of the Township during regular business hours at its reception area, at 4432 George Street, Sydenham, Ontario;
  - b. on the third (3<sup>rd</sup>) day after a copy is sent by registered mail or by regular lettermail to "Administrative Penalties, Township of South Frontenac, c/o Township Clerk, 4432 George Street, Sydenham, Ontario, K0H 2T0"; or
  - c. upon the conclusion of the transmission of a copy by facsimile transmission to 613-376-6657.

## **6. Financial Administration**

- 6.1. No Officer who gives a Penalty Notice may accept payment of the Administrative Penalty respecting that Penalty Notice.
- 6.2. An Administrative Penalty that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to this By-law is due and payable and constitutes a debt to the Township of each person to whom or to which the Penalty Notice was given.
- 6.3. Where a person has paid an Administrative Penalty or an administrative fee that is then cancelled or reduced pursuant to this By-law, the Township shall refund the amount cancelled or reduced.
- 6.4. Where an Administrative Penalty or any administrative fees respecting that Administrative Penalty are not paid within fifteen (15) days after the date that they become due and payable, each person to whom the Penalty Notice was given shall pay to the Township an additional Fee for late payment in an amount of \$25.

## **7. General**

- 7.1. The Director may appoint as Screening Officers and Hearings Officers such individuals and on such terms as the Director considers appropriate.

7.2. Nothing in this By-law limits the Township's right to enforce this By-law by any other legal means or to use any other process of enforcement available under law.

That this by-law shall come into force and take effect on the date of its passing.

Read a first and second time this 19 day of May, 2020.

Read a third time, signed and sealed this 19day of May, 2020.

**THE CORPORATION OF THE  
TOWNSHIP OF SOUTH FRONTENAC**

  
\_\_\_\_\_  
Ron Vandewal, Mayor

  
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Angela Maddocks, Clerk

By-law 2020-25  
Schedule A  
Devil Lake Causeway – Perth Road

