

THE CORPORATION OF THE TOWN OF AURORA

BY-LAW NUMBER ____-22

A BY-LAW TO APPOINT SCREENING AND HEARING OFFICERS FOR THE PURPOSES OF ADMINISTRATION OF AN ADMINISTRATIVE MONETARY PENALTY SYSTEM WITHIN THE TOWN OF AURORA

WHEREAS Section 102.1(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("*Municipal Act, 2001*") 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 the Province of Ontario has adopted O. Reg. 333/07, pursuant to the *Municipal Act, 2001*, which applies to administrative penalties in respect of the Town by-laws relating to issues of public safety, such as parking, property standards, lot maintenance and animal control;

AND WHEREAS in accordance with the *Municipal Act, 2001*, the Town has passed a Parking Administrative Penalty By-law;

AND WHEREAS in accordance with the aforesaid by-law and the Regulation, a person who receives a Penalty Notice shall have the right to request a screening review of the administrative penalty by a Screening Officers appointed by the Town;

AND WHEREAS in accordance with the aforesaid by-law and the Regulation, a person who receives a Screening Decision shall have the right to request a review of the decision by a Hearing Officer appointed by the Town;

AND WHEREAS the Town considers it desirable and necessary to establish the positions of Screening Officer and Hearing Officer, which are required for the operation of the Town's Parking Administrative Penalty By-law;

NOW THEREFORE The Corporation of the Town of Aurora enacts as follows:

Title

1. This by-law shall be known and cited as the "Screening and Hearing Officer By-law".

Definitions

2. For the purposes of this by-law:

Administrative Penalty – means an administrative penalty imposed for a contravention of a Designated By-law, as set out in the Parking Administrative Penalty By-law;

Town Solicitor – means the Town Solicitor, or his/her designate or successor;

Clerk – means the Clerk of the Town as appointed pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, or his/her designate;

Council – means the Council of the Town;

Designated By-law – means any provision of a Town by-law to which the Parking Administrative Penalty By-law applies, as designated therein;

Hearing Officer – means any person appointed from time to time pursuant to this by-law, to perform the functions of a hearing officer in accordance with this by-law and

the Parking Administrative Penalty By-law;

Joint Panel – means a panel comprised of representatives of the Town, The Corporation of the Township of King and The Corporation of the Town of Georgina, as set out in the Policy for Appointment of Screening and Hearing Officers;

Parent – means a person who has demonstrated a settled intention to treat a child as a member of her or his family whether or not that person is the natural parent of the child;

Parking Administrative Penalty By-law – means **By-law No. ____ of the Town**, as amended from time to time, or any successor thereof;

Person – includes an individual or a corporation;

Policy for Appointment of Screening and Hearing Officers – means a policy for the appointment of screening and hearing officers, and amended from time to time, or any successor thereof;

Power of Decision – means a power or right, conferred by or under this by-law and the Parking Administrative Penalty By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any person:

- a) In the case of a Screening Officer, in respect of a request to review an Administrative Penalty; and
- b) In the case of a Hearing Officer, in respect of a review of a Screening Decision

Regulation – means O. Reg. 333/07, made under the *Municipal Act, 2001*, as amended from time to time, or any successor thereof;

Relative – includes any of the following persons:

- a) spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
- b) Parent or legal guardian;
- c) child, including a step child and grandchild;
- d) siblings and children of siblings;
- e) aunt, uncle, niece and nephew;
- f) in-laws, including mother, father, sister, brother, daughter and son; or
- g) any person who lives with the person on a permanent basis

Screening Decision – means a notice which contains the decision of a Screening Officer, as set out in the Parking Administrative Penalty By-law;

Screening Officer – means any person appointed from time to time pursuant to this by-law, to perform the functions of a screening officer in accordance with this by-law and the Parking Administrative Penalty By-law; and

Spouse – means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage

Town – means The Corporation of the Town of Aurora;

Screening Officer

3. The position of Screening Officer is established for the purpose of exercising the Power of Decision in the screening review of an Administrative Penalty, as set out

in the ~~Parking~~ Administrative Procedural By-law.

4. The Screening Officer shall have all the powers of a screening officer as set out in the Parking Administrative Penalty By-law and the Regulation.
5. Screening Officer(s) shall be appointed by the Clerk, in consultation with the Town Solicitor, in accordance with the Town's Policy for Appointment of Screening and Hearing Officers.

Hearing Officer

6. The position of Hearing Officer is established for the purpose of exercising the Power of Decision in a review of a Screening Decision, as set out in the Parking Administrative Penalty By-law.
 - 1) The Hearing officer shall have all the powers of a hearing officer as set out in the Parking Administrative Penalty By-law and the Regulation.
 - 2) Hearing Officer(s) shall be appointed by the Clerk on the recommendation of the Joint Panel, in accordance with the Policy for Appointment of Screening and Hearing Officers. The recommendation shall give preference to an eligible candidate:
 - a) With good knowledge of, and experience in, administrative law; and
 - b) Of good character
7. Hearing Officers shall be appointed for the term of Council, and thereafter until the Hearing Officer is reappointed or a successor is appointed pursuant to this by-law or is no longer required by the Town.
8. Notwithstanding Section 7 of this by-law, the Clerk may revoke the appointment of a Hearing Officer at any time, on the recommendation of the Joint Panel, if the Hearing Officer:
 - 1) is found to have contravened any applicable Town policy relating to the administration of the Administrative Penalty system;
 - 2) is found to have contravened any other requirement of the appointment; or
 - 3) at any time during the appointment becomes ineligible for appointment
9. A Hearing Officer shall be remunerated at a rate as established by the Clerk from time to time.
10. A Hearing Officer is deemed not to be an employee of the Town, but a person who holds an administrative position in accordance with Section 258 of the *Municipal Act, 2001*.

Eligibility

11. The following persons are not eligible for appointment as a Screening Officer or a Hearing Officer:
 - 1) A member of Council;
 - 2) A Relative of a member of Council;
 - 3) A person indebted to the Town, other than:
 - a) In respect of current property taxes; or
 - b) Pursuant to an agreement with the Town, where the person is in compliance with the terms thereof

In addition to the above, Town employees are not eligible for appointment as a Hearing Officer.

General

12. A Screening Officer or a Hearing Officer shall have no authority to further delegate his/her powers or duties.
13. 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.
14. For the purposes of subsection 23.2(4) of the *Municipal Act, 2001*, Council has determined that the powers delegated to the Screening Officer and the Hearing Officer are minor in nature.

Severability

15. 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, 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.
16. This by-law shall come into effect on February 1, 2023.

READ a FIRST and SECOND time this _____, day of May 2022

READ a THIRD time AND FINALLY PASSED this _____, day of May 2022.

Tom Mrakas
Mayor

Michael de Rond
Town Clerk