

The Corporation of the Town of Aurora

By-law Number 6451-22

Being a By-law to establish the positions of screening and hearing officers for the purposes of administration of an administrative monetary penalty system within the Town of Aurora.

Whereas Sections 102.1 and 434.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act, 2001*") and O. Reg. 333/07, as amended, authorize municipalities to establish an administrative monetary penalty system requiring a person to pay an administrative penalty for a contravention of any designated by-law;

And whereas Section 15.4.1 of the *Building Code Act, 1992*, S.O. 1992, c. 23 (the "*Building Code Act, 1992*") authorizes municipalities to require a person, subject to such conditions as a municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with the municipal property standards by-law, or an order pursuant to such by-law;

And whereas the Town has passed the Administrative Penalty By-law;

And whereas in accordance with the aforesaid Administrative Penalty By-law and applicable legislation, a person who receives a penalty notice shall have the right to request a screening review of the administrative penalty by a screening officer appointed by the Town;

And whereas in accordance with the aforesaid Administrative Penalty By-law and applicable legislation, 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 Administrative Penalty By-law;

Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:

1. **Title**

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

2. **Definitions**

2.1 For the purposes of this by-law:

- (a) "**Administrative Penalty**" means an administrative penalty imposed for a contravention of a Designated By-law, as set out in the Administrative Penalty By-law;
- (b) "**Administrative Penalty By-law**" means the Administrative Penalty By-law of the Town, as amended from time to time, or any successor thereof;
- (c) "**CAO**" means the chief administrative officer of the Town, as appointed pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, or his/her designate;

- (d) **"Clerk"** means the Clerk of the Town as appointed pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, or his/her designate;
- (e) **"Council"** means the Council of the Town;
- (f) **"Designated By-law"** means any provision of a Town by-law to which the Administrative Penalty By-law applies, as designated therein;
- (g) **"Director"** means the department head responsible for the Bylaw Services division of the Town, or his/her designate or successor;
- (h) **"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 Administrative Penalty By-law;
- (i) **"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;
- (j) **"Person"** includes an individual or a corporation;
- (k) **"Policy for Appointment of Screening and Hearing Officers"** means the policy of the Town for the appointment of screening and hearing officers, as amended from time to time, or any successor thereof;
- (l) **"Power of Decision"** means a power or right, conferred by or under this by-law and the Administrative Penalty By-law, to make a decision determining or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any Person:
 - (i) in the case of a Screening Officer, in respect of a request to review an Administrative Penalty; and
 - (ii) in the case of a Hearing Officer, in respect of a review of a Screening Decision;
- (m) **"Regulation"** means O. Reg. 333/07, made under the *Municipal Act, 2001*, as amended from time to time, or any successor thereof;
- (n) **"Relative"** includes any of the following persons:
 - (i) spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
 - (ii) Parent or legal guardian;
 - (iii) child, including a stepchild and grandchild;
 - (iv) siblings and children of siblings;
 - (v) aunt, uncle, niece and nephew;
 - (vi) in-laws, including mother, father, sister, brother, daughter and son;
or
 - (vii) any person who lives with the person on a permanent basis

- (o) **“Screening Decision”** means a notice which contains the decision of a Screening Officer, as set out in the Administrative Penalty By-law;
- (p) **“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 Administrative Penalty By-law;
- (q) **“Spouse”** means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage; and
- (r) **“Town”** means The Corporation of the Town of Aurora.

3. Screening Officer

- 3.1 The position of Screening Officer is established for the purpose of exercising the Power of Decision in the review of an Administrative Penalty by a Screening Officer, as set out in the Administrative Procedural By-law.
- 3.2 The Screening Officer shall have all the powers of a Screening Officer as set out in the Administrative Penalty By-law and, with respect to any matters subject to a by-law designated under Section 102.1 of the *Municipal Act, 2001*, the Regulation.
- 3.3 Screening Officer(s) shall be appointed by the Clerk, in accordance with the Policy for Appointment of Screening and Hearing Officers.

4. Hearing Officer

- 4.1 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 Administrative Penalty By-law.
- 4.2 The Hearing Officer shall have all the powers of a Hearing Officer as set out in the Administrative Penalty By-law and, with respect to any matters subject to a by-law designated under Section 102.1 of the *Municipal Act, 2001*, the Regulation.
- 4.3 Hearing Officer(s) shall be appointed by the Clerk, in accordance with the Policy for Appointment of Screening and Hearing Officers. In the selection of Hearing Officer(s) for appointment, preference shall be given to eligible candidates:
 - (a) with good knowledge of, and experience in, administrative law; and
 - (b) of good character.
- 4.4 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.
- 4.5 Notwithstanding Subsection 4.4, the Clerk may revoke the appointment of a Hearing Officer at any time, if the Hearing Officer:
 - (a) is found to have contravened any applicable Town policy relating to the administration of the Administrative Penalty system;
 - (b) is found to have contravened any other requirement of the appointment; or
 - (c) at any time during the appointment becomes ineligible for appointment.

4.6 A Hearing Officer shall be remunerated at a rate as established by the Clerk from time to time.

4.7 A Hearing Officer is deemed not to be an employee of the Town.

5. Eligibility

5.1 The following persons are not eligible for appointment as a Screening Officer or a Hearing Officer:

(a) a member of Council;

(b) a Relative of a member of Council;

(c) a person indebted to the Town, other than:

(i) in respect of current property taxes; or

(ii) pursuant to an agreement with the Town, where the person is in compliance with the terms thereof.

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

6. General

6.1 A Screening Officer or a Hearing Officer shall have no authority to further delegate his/her powers or duties.

6.2 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.

6.3 The Director shall administer this by-law and is delegated the power to prescribe all forms, notices, guidelines, practices, processes and procedures, necessary to implement this by-law and the administrative penalty system, and to amend the same from time to time as the Director deems necessary.

6.4 The CAO is delegated the power to establish and implement any policies necessary to implement this by-law and the administrative penalty system, including without limitation the Policy for Appointment of Screening and Hearing Officers, and may amend the same from time to time, as the CAO deems necessary.

6.5 The Clerk is delegated the power to appoint, suspend the appointment of and revoke appointments of any Screening Officer and Hearing Officer, in accordance with the Policy for Appointment of Screening and Hearing Officers, and any other applicable policies, by-laws and legislation.

6.6 For the purposes of Subsection 23.2(4) of the *Municipal Act, 2001*, Council has determined that any powers delegated pursuant to this by-law are minor in nature.

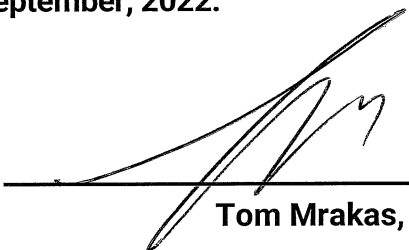
7. Interpretation

- 7.1 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections clauses, and schedules in this by-law.
- 7.2 The part and section headings contained throughout this document are for reference purposes only and do not form a part of this by-law. This by-law is to be interpreted without reference to such headings.
- 7.3 References in this by-law to any statute or statutory provisions include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.
- 7.4 This by-law shall be read with all changes in gender or number as the context requires.
- 7.5 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 7.6 The words "include", "includes", "including" are not to be read or interpreted as limiting the words, phrases, or descriptions that precede it.
- 7.7 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.

8. Effective Date

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

Enacted by Town of Aurora Council this 20th day of September, 2022.



Tom Mrakas, Mayor



Michael de Rond, Town Clerk