



**BY-LAW NUMBER 2024-**

**A By-law of The Corporation of the City of Barrie to appoint screening and hearing officers for the purpose of administration of an Administrative Penalty system for Automated Speed Enforcement within the municipality**

**WHEREAS** Section 8 of the *Municipal Act, 2001* provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("The Municipal Act, 2001") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

**AND WHEREAS** Section 10(2) of the *Municipal Act, 2001* provides that a single-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

**AND WHEREAS** Section 434.1 of the *Municipal Act 2001* permits a municipality to 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 the Municipal Act;

**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 City by-laws relating to issues of public safety, such as parking, property standards, lot maintenance and animal control;

**AND WHEREAS** Section 21.1 of the *Highway Traffic Act* provides for the use of Administrative Penalties in order to promote compliance with the Act;

**AND WHEREAS** Ontario Regulation 355/22, as amended, provides for the use of Administrative Penalties for camera based offences;

**AND WHEREAS** Ontario Regulation 398/19, as amended, provides for the use of Automated Speed Enforcement camera systems in community safety zones designated by by-law passed under section 214.1 (1) of the *Highway Traffic Act*, where the prescribed rate of speed is less than 80 kilometres per hour, or in school zones designated by by-law under clause 128 (5) (a).2017, c. 9, s. 5 of the *Highway Traffic Act*;

**AND WHEREAS** in accordance with the *Municipal Act, 2001*, the City has passed Automated Speed Enforcement Administrative Penalty By-law 2024-086;

**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 Officer appointed by the City;

**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 City;

**AND WHEREAS** the Council of The Corporation of the City of Barrie considers it desirable and necessary to establish the positions of Screening Officer and Hearing Officer, which are required for the operation of the City's Automated Speed Enforcement Administrative Penalty By-law;

**NOW THEREFORE** The Corporation of the City of Barrie enacts as follows:

1.0.0.0.0 **DEFINITIONS**

1.1.0.0.0 For the purposes of this by-law:

1.1.1.0.0 **ADMINISTRATIVE PENALTY** – means an administrative penalty imposed for a contravention of a Designated By-law, as set out in the Automated Speed Enforcement Administrative Penalty By-law.

1.1.2.0.0 **CITY** – means the Corporation of the City of Barrie.

1.1.3.0.0 **CITY SOLICITOR** – means the City Solicitor, or his/her designate or successor.

- 1.1.4.0.0 **CLERK**– means the City Clerk, or anyone designated by the City Clerk to perform his or her duties pursuant to this By-law.
- 1.1.4.0.0 **COUNCIL** – means the City Council of the City of Barrie.
- 1.1.5.0.0 **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, the Automated Speed Enforcement Administrative Penalty by-law.
- 1.1.6.0.0 **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;
- 1.1.7.0.0 **PERSON** – includes an individual or a corporation.
- 1.1.8.0.0 **POWER OF DECISION** – means a power or right, conferred by or under this By-law, the Automated Speed Enforcement 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.
- 1.1.9.0.0 **REGULATIIONS** – means O. Reg. 333/07, made under the *Municipal Act, 2001*, as amended from time to time, or any successor thereof, and Ontario Regulations 355/22 and 398/19, made under the Highway Traffic Act, as amended.
- 1.1.10.0.0 **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 stepchild 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.
- 1.1.11.0.0 **SCREENING DECISION** – means a notice which contains the decision of a Screening Officer, as set out in the Automated Speed Enforcement Administrative Penalty By-law;
- 1.1.12.0.0 **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 the Automated Speed Enforcement Administrative Penalty By-law;
- 1.1.13.0.0 **SPOUSE** – means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.
- 2.0.0.0.0 **SCREENING OFFICER**
- 2.1.0.0.0 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 Automated Speed Enforcement Administrative Penalty by-law.
- 2.1.1.0.0 The Screening Officer shall have all the powers of a screening officer as set out in the Automated Speed Enforcement Administrative Penalty By-law and related Regulations.
- 2.1.2.0.0 Screening Officer(s) shall be appointed by the City Clerk.
- 3.0.0.0.0 **HEARING OFFICER**
- 3.1.0.0.0 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 Automated Speed Enforcement Administrative Penalty By-law.
- a) The Hearing Officer shall have all the powers of a Hearing Officer as set out in the Automated Speed Enforcement Administrative Penalty by-law and related Regulations.
  - b) Hearing Officer(s) shall be appointed by the City Clerk.

- 3.1.1.0.0 Preference shall be given to eligible candidates who:
- Are of good character;
  - Possess the ability to act impartially and maintain impartiality.
  - Have formal post-secondary education in Law Enforcement, Regulatory Law, Public Administration, Paralegal or related field and/or have an equivalent combination of education and experience.
  - Have demonstrated knowledge and experience in adjudicative processes, including hearings for administrative tribunals
  - Have knowledge of and experience in the practice of administrative law, alternative dispute resolution, mediation, adjudication and decision-making.
  - Have knowledge of, and experience in, interpreting and applying legislation, including municipal bylaws, the *Highway Traffic Act*, and the *Municipal Act, 2001*.
  - Have demonstrated respect for diversity and inclusivity in maintaining a fair and transparent process for all persons.
  - Possess excellent communication skills (verbal, written, and presentation), with the ability to formulate reasoned decisions and communicate them clearly and effectively.
  - Have highly effective leadership, facilitation, and organizational abilities.
  - Possess the ability to deal courteously and effectively with staff, stakeholders, consultants, and the public.
  - Possess good organizational, time management and interpersonal skills.
  - Have knowledge of and experience in the use of technology in the performance of work duties, including virtual conferencing technology.
  - Have demonstrated knowledge in the use of computer software including Microsoft Office Suite (Outlook, Word, Teams and Zoom).
  - Are committed to ongoing professional development to enhance expertise and remain current in the field.
  - Provide a satisfactory police background check.
  - Have membership in the Society of Ontario Adjudicators and Regulators (SOAR) and/or the Law Society of Ontario (LSO).
- 3.1.2.0.0 Hearing Officers shall be appointed for up to a four-year term and may be reappointed for an additional two-year term(s) or until a successor is appointed pursuant to this by-law or is no longer required by the City.
- 3.1.3.0.0 Notwithstanding Section 7 of this by-law, 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 City policy relating to the administration of the Administrative Penalty Program;
  - b) is found to have contravened any other requirement of the appointment; or
  - c) at any time during the appointment becomes ineligible for appointment
- 3.1.4.0.0 A Hearing Officer shall be remunerated at a rate established by the City Clerk from time to time.
- 3.1.5.0.0 A Hearing Officer is deemed not to be an employee of the City, but a person who holds an administrative position in accordance with Section 258 of the *Municipal Act, 2001*.
- 4.0.0.0.0 **ELIGIBILITY**
- 4.1.0.0.0 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 City, other than:
    - i) In respect of current property taxes; or
    - ii) Pursuant to an agreement with the City, where the person is in compliance with the terms thereof
- 4.1.1.0.0 City employees are eligible to be appointed as a Screening Officer.

5.0.0.0.0 **GENERAL**

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

5.1.2.0.0 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.

5.1.3.0.0 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.

6.0.0.0.0 **SEVERABILITY**

6.1.0.0.0 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, 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.

7.0.0.0.0 **ENACTMENT**

7.1.0.0.0 **THAT** this By-law shall come into force and have effect on the \_\_\_ day of \_\_\_\_\_, 2024.

**READ** a first and second time this \_\_\_\_\_, day of \_\_\_\_\_ 2024.

**READ** a third time and finally passed this \_\_\_ day of \_\_\_\_\_, 2024.

**THE CORPORATION OF THE CITY OF BARRIE**

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**MAYOR – ALEX NUTTALL**

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**CITY CLERK – WENDY COOKE**