

Being a By-law to further amend Licensing By-law 120-2005, as amended, and the General Fees and Charges By-law 13-2003, as amended, to provide for a system of administrative penalties and administrative fees.

**WHEREAS:**

1. Council of The Corporation of the City of Oshawa considers it desirable and necessary to further amend Licensing By-law 120-2005, as amended, and the General Fees and Charges By-law 13-2003, as amended, to provide for a system of administrative penalties and administrative fees as an additional means of encouraging compliance with the Licensing By-law.

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

1. Section 2 of By-law 120-2005, as amended, (“Licensing By-law”) is further amended by adding each of the following definitions:
  - (a) “Hearings Officer” means a person from time to time appointed by Council pursuant to the Hearings Officer By-law.
  - (b) “Officer” means each person authorized by section 10 of this By-law to inspect.
2. Paragraph 4(a) of the Licensing By-law is amended by adding the following sentence:

“Without limitation, the Director may require an applicant to provide each applicant’s name, address, telephone number, facsimile transmission number and e-mail address.”
3. Paragraph 4(d) of the Licensing By-law is amended by deleting in clause (7) the last word, “or” and by adding the following clause:

“(7.1) notwithstanding the preceding clause 4(d)(7), the applicant is indebted to the City in respect of an administrative penalty imposed pursuant to section 16.1; or”
4. Section 9 of the Licensing By-law is amended by deleting its text and by substituting the following:

“Each applicant or, where a licence has been issued, each licensee shall advise the Director of any change in any information provided pursuant to paragraph 4(a) of this By-law by providing to the Director notice of such change within fifteen (15) days of the date of such change. Failure to comply with this section constitutes an offence.”

5. Paragraph 14(e) of the Licensing By-law is amended by deleting its text and by substituting the following:

“A decision by Council to revoke, suspend or refuse a licence shall be effective when notice of the decision has been given to the person or applicant.”

6. The Licensing By-law is further amended by adding the following section:

14.1 Notices

(a) Any notice pursuant to this By-law may be given in writing in any of the following ways and is effective:

- i) on the date on which a copy is delivered to the person to whom it is addressed;
- ii) on the fifth day after a copy is sent by registered mail to the person’s last known address;
- iii) upon the conclusion of the transmission of a copy by facsimile transmission to the person’s last known facsimile transmission number; or
- iv) upon the sending of a copy by e-mail transmission to the person’s last known e-mail address.

(b) For the purpose of paragraph 14.1(a) of this By-law, the person’s last known address, last known facsimile transmission number and last known e-mail address shall be deemed to include those provided pursuant to paragraph 4(a) of this By-law as they may be changed pursuant to section 9 of this By-law.

7. The Licensing By-law is further amended by adding the following section:

14.2 Exemptions

- (a) The Director may exempt any person from all or any part of the Licensing By-law where the Director is satisfied that the granting of the exemption would maintain the general intent and purpose of the Licensing By-law.
- (b) The Director may impose such conditions as the Director determines are appropriate in relation to an exemption granted by the Director.
- (c) Where a person is denied an exemption by the Director or is dissatisfied with any condition imposed by the Director in relation to an exemption, the person may request a review by the Hearings Officer of the Director's denial or condition in accordance with this paragraph 14.2(c).
  - i) The person's right to request a review expires on the tenth (10<sup>th</sup>) day after notice of the Director's decision is given to the person at which time the Director's decision is final and not subject to review.
  - ii) The hearing of the review request under clause 14.2(c)i) shall not be scheduled until the person has paid the fee from time to time prescribed by the City's General Fees and Charges By-law.
  - iii) The person shall be given seven (7) days' notice of the date, time and place of the hearing of the review request under clause 14.2(c)i).
  - iv) The Hearings Officer shall not make a determination with respect to a review request under clause 14.2(c)i) unless the Hearings Officer has given each of the person and the Director an opportunity to be heard.
  - v) The Hearings Officer may affirm the Director's decision or, alternatively, may exempt the person from all or any part of the Licensing By-law where the Hearings Officer is satisfied that affirming the Director's decision or granting an exemption would maintain the general intent and purpose of the Licensing By-law.
  - vi) The Hearings Officer may impose such conditions as the Hearings Officer determines are appropriate in relation to an exemption granted by the Hearings Officer.
  - vii) The decision of a Hearings Officer and any condition imposed by the Hearings Officer in relation to an exemption granted by the Hearings Officer are final and not subject to review.

8. The Licensing By-law is further amended by adding the following section:

16.1 Administrative Penalties

- (a) Each person who contravenes any provision of this By-law, including any provision of its Schedules, shall, upon issuance of a penalty notice in accordance with this section 16.1, be liable to pay to the City an administrative penalty in the amount of \$250.
- (b) An Officer who finds that a person has contravened any provision of this By-law, including any provision of its Schedules, may issue a penalty notice addressed to the person.
- (c) The penalty notice shall be given to the person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
  - i) Particulars of the contravention;
  - ii) The amount of the administrative penalty;
  - iii) Information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and
  - iv) A statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the City.
- (d) No Officer may accept payment of an administrative penalty.
- (e) A person who receives a penalty notice may request a review of the administrative penalty by the Hearings Officer in accordance with this paragraph 16.1(e).
  - i) The person's right to request a review expires on the tenth (10<sup>th</sup>) day after the penalty notice is given to the person.
  - ii) The person's right to request that the Hearings Officer extend the time to request a review expires on the twentieth (20<sup>th</sup>) day after the penalty notice is given to the person at which time the administrative penalty shall be deemed to be affirmed.
  - iii) The person shall be given seven (7) days' notice of the date, time and place of the hearing of a review request under clause 16.1(e)i) or an extension request under clause 16.1(e)ii).
  - iv) The Hearings Officer shall not make a determination with respect to a review request under clause 16.1(e)i) or an extension request under clause 16.1(e)ii) unless the Hearings Officer has given each of the person, the Director and the Officer who issued the penalty notice an opportunity to be heard.

- v) The Hearings Officer may affirm the administrative penalty or extend the time to request a review of an administrative penalty.
- vi) The Hearings Officer may cancel or reduce the administrative penalty or may extend the time for payment of the administrative penalty only where the Hearings Officer is satisfied that doing so would maintain the general intent and purpose of the Licensing By-law and that
  - (1) there is reason to doubt that the person contravened the Licensing By-law;
  - (2) the person took all reasonable steps to prevent the contravention; or that
  - (3) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.
- vii) The decision of a Hearings Officer is final and not subject to review including review by any Court.
- (f) The Director may at any time cancel, reduce or extend the time for payment of an administrative penalty, including any late payment fee imposed pursuant to the General Fees and Charges By-law.
- (g) An administrative penalty that is deemed to be affirmed pursuant to clause 16.1(e)ii) or that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to clause 16.1(e)v) or paragraph 16.1(f) constitutes a debt to the City of each person to whom or to which the penalty notice was given.
- (h) Where a person has paid an administrative penalty that is then cancelled or reduced pursuant to clause 16.1(e)v) or paragraph 16.1(f), the City shall refund the amount cancelled or reduced.
- (i) Where an administrative penalty is paid within fifteen (15) days after the date that it becomes due and payable, no person to whom the penalty notice was given shall be liable for an offence in respect of the contravention described in the penalty notice.
- (j) Where a person makes a review request under clause 16.1(e)i) or an extension request under clause 16.1(e)ii) and fails to appear at the time and place scheduled for a hearing of the request, the person shall pay to the City an administrative fee as from time to time prescribed by the General Fees and Charges By-law.
- (k) Where an administrative penalty is not paid within fifteen (15) days after the date that it becomes due and payable, each person to whom the penalty notice was given shall pay to the City a late payment administrative fee as from time to time prescribed by the General Fees and Charges By-law.

9. The Licensing By-law is further amended by adding the following section:

16.2 Delegation

(a) “For the purpose of subsection 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, it is the opinion of Council that the powers delegated to the Hearings Officer and to the Director pursuant to this By-law are of a minor nature”.

10. The General Fees and Charges By-law 13-2003, as amended, is further amended by adding to its Schedule “A” within the table entitled, “Licensing – Annual Fee Unless Otherwise Noted”, the following rows:

Each request of a Hearings Officer for an exemption to the Licensing By-law	\$100
Each late payment of an administrative penalty	\$50
Each failure to attend hearing before Hearings Officer	\$100

11. This By-law is in effect on the date of its passing.

By-law passed this twentieth day of February, 2008.