



## By-law 17-2024 of The Corporation of the City of Oshawa

Being a By-law to establish the positions and appointment processes of Screening Officer and Hearing Officer.

Whereas Section 434.1 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (the “Municipal Act”) authorizes The Corporation of the City of Oshawa (the “City”) to require a person, subject to such conditions as the municipality considers appropriate, 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 Section 102.1 of the Municipal Act, and Ontario Regulation 333/07 (the “Regulation”) authorize the City to require a person to pay an administrative penalty for a contravention of any by-law respecting the parking, standing or stopping of vehicles; and,

Whereas pursuant to the Regulation, a person who receives a penalty notice shall have the right to request a review of the administrative penalty by a Screening Officer appointed by the municipality; and,

Whereas pursuant to the Regulation, a person who receives notice of a decision from a Screening Officer shall have the right to a review of the Screening Officer's decision by a Hearing Officer appointed by the municipality; and,

Whereas the Council of The Corporation of the City of Oshawa 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 Administrative Penalty Process By-law 63-2013, as amended, and the Parking Administrative Penalty System By-law 24-2011, as amended;

Therefore it is enacted as a by-law of The Corporation of the City of Oshawa as follows:

### 1. Definitions

1.1 In this By-law,

**“Chief Administrative Officer”** (“C.A.O.”) means the Chief Administrative Officer of The Corporation of the City of Oshawa or their designate;

**“Child”** means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of her or his family;

**“City”** means The Corporation of the City of Oshawa;

**“City Staff”** means employees of the City;

**“Council”** means the council of the City;

**“Delegated Power of Decision”** means a power or right, conferred by or under a City By-law, to make a decision deciding or prescribing,

- i. The legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
- ii. The eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is entitled thereto or not.

**“Director”** means the City's Director of Municipal Law Enforcement and Licensing Services.

**“Hearing Officer”** means each person from time to time appointed by the C.A.O. pursuant to this By-law;

**“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;

**“Power of Decision”** means a power or right, conferred by or under this By-law, the City’s Administrative Penalty Process By-law and Parking Administrative Penalty System By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any person.

**“Screening Officer”** means each person from time to time appointed by the C.A.O. pursuant to this 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.

## **2. Appointment of Screening Officer**

- 2.1 The position of Screening Officer is established for the purpose of exercising the Power of Decision in respect of a request to review an administrative penalty as set out in the City’s Administrative Penalty Process By-law and/or Parking Administrative Penalty System By-law.
- 2.2 Screening Officers shall be appointed by the C.A.O. on the recommendation of the Director which recommendation shall give preference to eligible candidates:
  - a) With knowledge of and experience in administrative law;
  - b) Of good character;
  - c) Able to carry out a fair and impartial screening;
  - d) Able to write a clear and concise decision;
  - e) Able to communicate effectively with the public;
  - f) With excellent written and oral communication skills;
  - g) With an understanding of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22; and,
  - h) With an understanding of the Municipal Act, 2001, S.O. 2001, c. 25.
- 2.3 The following are not eligible for appointment as a Screening Officer:
  - a) An employee or member of Council of the City;
  - b) The Child of a person referenced in paragraph 3.3(a);
  - c) The Parent of a person referenced in paragraph 3.3(a);
  - d) The Spouse of a person referenced in paragraph 3.3(a); or
  - e) A person indebted to the City other than
    - i. In respect of current real property taxes; or
    - ii. Pursuant to an agreement with the City the terms with which the person is in compliance.
- 2.4 The C.A.O. may appoint as Screening Officers, such individuals and on such terms as the C.A.O. considers appropriate.
- 2.5 The C.A.O. may revoke the appointment of a Screening Officer at any time.
- 2.6 Each Screening Officer shall be remunerated at the rate from time to time established by City Staff.

## **3. Appointment of Hearing Officer**

- 3.1 The position of Hearing Officer is established for the purpose of exercising Delegated Powers of Decision.

3.2 Hearing Officers shall be appointed by the C.A.O. on the recommendation of the Director in consultation with the City Solicitor which recommendation shall give preference to eligible candidates:

- a) With knowledge of and experience in administrative law;
- b) Of good character;
- c) Able to carry out a fair and impartial hearing;
- d) Able to write a clear and concise decision;
- e) Able to communicate effectively with the public;
- f) With excellent written and oral communication skills;
- g) With an understanding of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22; and,
- h) With an understanding of the Municipal Act, 2001, S.O. 2001, c. 25.

3.3 The following are not eligible for appointment as a Hearing Officer:

- a) An employee or member of Council of the City;
- b) The Child of a person referenced in paragraph 3.3(a);
- c) The Parent of a person referenced in paragraph 3.3(a);
- d) The Spouse of a person referenced in paragraph 3.3(a); or
- e) A person indebted to the City other than
  - i. In respect of current real property taxes; or
  - ii. Pursuant to an agreement with the City the terms with which the person is in compliance.

3.4 Each Hearing Officer is independent and not a City employee. Each Hearing Officer may be required to enter into a contract with the City outlining the terms of service.

3.5 Each Hearing Officer shall be appointed for such a term as the C.A.O. considers appropriate and thereafter until reappointed or until a successor is appointed pursuant to this By-law or is no longer required by the City.

3.6 The C.A.O. may revoke the appointment of a Hearing Officer at any time on the recommendation of the Director in consultation with the City Solicitor.

3.7 Each Hearing Officer shall be remunerated at the rate from time to time established by City Staff.

#### **4. General Provisions**

4.1 No person shall attempt, directly or indirectly, to communicate with or influence a Screening Officer or Hearing Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Screening Officer or Hearing Officer except a person who is entitled to be heard in the proceeding or the person's lawyer or licensed paralegal and only by that person or the person's lawyer or licensed paralegal during the hearing of the proceeding in which the issue arises. Failure to comply with this section constitutes an offence.

4.2 Section 4.1 does not prevent a Hearing Officer from seeking and receiving legal advice.

4.3 Staff will provide administrative support related to proceedings before a Hearing Officer, including without limitation, the making and keeping of minutes and records of all requests for hearings and appeals and decisions arising therefrom and all other official business of Hearing Officers.

- 4.4 Section 253 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (Inspection of Records) applies with necessary modifications to documents made or kept pursuant to section 4.3 of this By-law.
- 4.5 Proceedings before Screening and Hearing Officers shall be subject to the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 and the City's established Policies and Procedures.
- 4.6 The short title of this By-law is the "Screening and Hearing Officer By-law."

## **5. Enactment**

- 5.1 This By-law is in effect on the date of its passing.
- 5.2 By-law 26-2008, as amended, and By-law 163-2022, are hereby repealed.

By-law passed this twenty-ninth day of January, 2024.