



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2024-148

A by-law to establish an Administrative Penalties System for automated speed enforcement in Community Safety Zones

WHEREAS section 214.1(1) of the *Highway Traffic Act*, R.S.O 1990, c.H.8, as amended, authorizes the Council of a municipality to designate by by-law part of a highway under its jurisdiction as a community safety zone, if in Council's opinion, public safety is of special concern on that part of the highway;

WHEREAS section 11A of the Town of Oakville's Traffic By-law 1984-1, as amended, designates community safety zones and subsection 12(1) of Traffic By-law 1984-1 sets out rates of speed;

WHEREAS section 205.1(1) of the *Highway Traffic Act* permits the use of an automated speed enforcement system in a community safety zone designated by by-law where the prescribed rate of speed is less than 80 kilometres per hour;

WHEREAS Ontario Regulation 355/22 Administrative Penalties for Contraventions Detected Using Camera Systems under the *Highway Traffic Act* sets out the penalty rates for speeding in a community safety zone;

WHEREAS pursuant to the Screening & Hearing Officer By-law 2015-091, as amended, the Town has employed certain persons as Screening Officers and has appointed certain persons as Hearing Officers;

WHEREAS the Council of the Corporation of the Town of Oakville considers it desirable to establish an administrative penalties system for automated speed enforcement in community safety zones;

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

(1) For the purposes of this By-law, the following definitions shall apply:

“Administrative Penalty” means an administrative penalty as set out in Ontario Regulation 355/22 imposed for contravention of the speed limit in a community safety zone designated by Traffic By-law 1984-1;

“Appear” means to attend or participate orally, electronically or in writing at the time and date scheduled for an appeal, if a date and time are scheduled;

“Appeal” means a first stage appeal and/or a second stage appeal, as the context requires;

“Automated Speed Enforcement System” means a system that is used in accordance with Part XIV.1 of the Highway Traffic Act and Ontario Regulation 355/22;

“Community Safety Zone” means a section of a roadway designated as a community safety zone under Traffic By-law 1984-1, in accordance with subsection 214.1(1) of the Highway Traffic Act, where public safety is of special concern on that part of the roadway. Community Safety Zones may include roadways near schools, day care centres, active parks, hospitals, senior citizen residences, and may also be used for collision prone areas within a community;

“Contravention” means a contravention of or a failure to comply with speed limits in community safety zones as set out in the Traffic By-law and “contravened” has a similar meaning;

“Council” means the Council for the Corporation of the Town of Oakville;

“First Stage Appeal” means the review of a penalty order by a Screening Officer;

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O 1990, c.H.8, as amended from time to time;

“Hearing Officer” means a person appointed as a Hearing Officer pursuant to Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

“Ministry” means the Ministry of Transportation for Ontario;

“Motor Vehicle” means as defined in the Highway Traffic Act;

“Ontario Regulation 355/22” means Regulation 355/22 Administrative Penalties for Contraventions Detected Using Camera Systems under the Highway Traffic Act;

“Owner”, in relation to a motor vehicle, means,

- (a) the holder of the permit for the motor vehicle, or
- (b) if the motor vehicle permit consists of a vehicle portion and plate portion and different persons are named on each portion, the person whose name appears on the plate portion;

“Penalty Order” means an order made under Section 3 of this By-law;

“Provincial Offences Officer” for the purposes of this By-law, meets the following criteria:

- (a) the person is employed by a municipality;
- (b) the person has been designated as a provincial offences officer by the Minister of Transportation under subsection 1(3) of the *Provincial Offences Act* for the purposes of all or any class of offences set out in Part XIV.1 of the Highway Traffic Act;
- (c) The designation mentioned in paragraph (b) above authorizes the person to issue a certificate of offence under subsection 3(2) of the *Provincial Offences Act* for a contravention of a provision prescribed under section 128(1) of the Highway Traffic Act.

“Rates and Fees Schedule” means the Town’s current rates and fees schedule approved by Council as part of the annual budget approval process.

“Screening Decision” means a decision or disposition made by a Screening Officer;

“Screening Officer” means a person employed as a Screening Officer pursuant to the Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

“Second Stage Appeal” means the review of a Screening Decision by a Hearing Officer;

“Town” means The Corporation of the Town of Oakville.

“Traffic By-law” means the Town’s Traffic By-law 1984-1, as amended, or successor by-laws.

2. APPLICATION

- (1) A penalty order may not be issued for contravention of the speed limit in a community safety zone unless evidence is obtained through the use of an automated speed enforcement system.

3. PENALTY ORDER

- (1) If a Provincial Offences Officer is satisfied that evidence has been obtained through the use of an automated speed enforcement system that a person has contravened the speed limit in a community safety zone as set out in the Traffic By-law, the Provincial Offences Officer may, by penalty order, impose an administrative penalty on the owner of the motor vehicle, whether or not the owner was the driver of the motor vehicle at the time of the contravention.
- (2) The administrative penalty shall be in the amount specified by Ontario Regulation 355/22.
- (3) An administrative penalty may only be imposed within twenty-three (23) days after the day on which the contravention occurred.
- (4) The penalty order shall contain the information required by Ontario Regulation 355/22, including:
 - (a) a unique file number;
 - (b) the provision contravened;
 - (c) the date and location of the contravention;
 - (d) an identification of the motor vehicle that is involved in the contravention;
 - (e) the amount of the administrative penalty;
 - (f) a statement that the owner of the motor vehicle must, no later than 30 days after the day the order is served on them, pay the administrative penalty unless they commence an appeal in accordance section 7 of this By-law;
 - (g) a statement that the owner of the motor vehicle may, no later than 30 days after the day the order is served on them, commence an appeal in accordance with section 7 of this By-law; and

- (h) information regarding the appeal process including the manner in which to commence an appeal.
- (5) A copy of a photograph or image of the motor vehicle involved in the contravention may be included in the penalty order.
- (6) The penalty order may include statements by a Provincial Offences Officer that are certified to be true in respect of the contravention or in respect of the service of the penalty order.

4. SERVICE OF THE PENALTY ORDER

- (1) A penalty order may be served on the person who is subject to the order by sending the order by mail or by courier to the most recent address that appears on the Ministry's records in respect of the holder of the plate portion of the permit for the motor vehicle involved in the contravention.
- (2) If a Provincial Offences Officer believes that the person who is subject to the order resides outside of Ontario or, in the case of a corporation, has its principal place of business outside of Ontario, the penalty order may be served on the person by sending the order by mail or by courier to the address outside Ontario at which the Provincial Offences Officer believes the person resides or has its principal place of business.
- (3) The address mentioned in subsection 4(2) of this By-law may be determined from a document obtained from the government of any province or territory of Canada or from the government of a state of the United States of America, or from a person or entity authorized by any such government to keep records of vehicle permits, number plates or other evidence of vehicle ownership in that jurisdiction.
- (4) Service of a penalty order mailed or couriered is deemed to be effected on the seventh (7th) day following the day on which it was mailed or couriered.

5. FINANCIAL MANAGEMENT

- (1) The person who is subject to a penalty order shall pay the administrative penalty to the Town within thirty (30) days after the date on which service of the order is deemed to be effected unless the person has commenced a first stage appeal.

- (2) If an appeal does not result in the penalty order being set aside, the person who is subject to the order shall pay the administrative penalty to the Town within thirty (30) days after:
 - (a) the date of the Screening Decision, if no request for a second stage appeal was made in accordance with section 8 of this By-law; or
 - (b) the date of the decision of the Hearing Officer, if a second stage appeal was requested.
- (3) Payment of an administrative penalty must be received by the due date and will not be credited until received by the Town.
- (4) If a Screening Officer or Hearing Officer considers it fair and appropriate in the circumstances, they may approve a plan of periodic payments that extends beyond the deadline set out in subsection 5(2) of this By-law. This approval may be:
 - (a) conditional on the payment of a specified amount of the administrative penalty being made on or before a specified date; and/or
 - (b) approved even after the thirty (30) day period set out in subsection 5(2) of the By-law has expired.
- (5) Once an administrative penalty has been paid or forwarded to the Ministry in accordance with subsection 6(1), it shall not be subject to a first stage appeal or a second stage appeal or to any further review.

6. CONSEQUENCES FOR FAILURE TO PAY AN ADMINISTRATIVE PENALTY

- (1) If an administrative penalty is not paid within the thirty (30) day period set out in subsections 5(1) or 5(2) of this By-law or in accordance with a plan of periodic payments approved under subsection 5(4) of this By-law, the Town may notify the Ministry and the Ministry will collect payment of the administrative penalty, and:
 - (a) the person who is subject to the penalty order shall pay a late payment fee as set out in Ontario Regulation 355/22 for enforcement purposes, which fee shall be included in the amount of the administrative penalty; and

- (b) issuance and validation of a permit may be refused to the owner of the motor vehicle who is subject to the penalty order until the penalty is paid.

7. FIRST STAGE APPEAL - REVIEW BY A SCREENING OFFICER

- (1) A person who is subject to a penalty order may commence a first stage appeal by requesting that the penalty order be reviewed by a Screening Officer.
- (2) The request to commence the first stage appeal shall be made in the manner set out in the penalty order within thirty (30) days after the date on which service of the order is deemed to have been effected.
- (3) It is the appellant's responsibility to provide the Town with their current and correct telephone number and email address.
- (4) The Screening Officer shall determine whether the first stage appeal shall be conducted orally, electronically or in writing.
- (5) The appellant shall be notified:
 - (a) that their request for a first stage appeal has been received;
 - (b) of the date and time of the first stage appeal, if a date and time is set; and
 - (c) of the way in which the first stage appeal will be conducted according to subsection 7(4) of this By-law.
- (6) The Screening Officer may confirm, vary or set aside the penalty order and shall do so as soon as practicable after the review is complete.
- (7) In deciding whether to confirm, vary or set aside a penalty order, the Screening Officer shall determine whether it was reasonable for the Provincial Offences Officer to impose the penalty order and may consider the information included in subsection 9(1) of this By-law.
- (8) The Screening Officer shall not decide whether to confirm, vary or set aside a penalty order unless the appellant has been given an opportunity to make submissions in the same manner in which the first stage appeal is to be conducted.
- (9) No witnesses shall be called during a first stage appeal.

- (10) The appellant may request that the Screening Officer extend the thirty (30) day period to commence the first stage appeal. If the Screening Officer considers it fair and appropriate in the circumstances, the Screening Officer may extend the thirty (30) day period to commence the first stage appeal. The extension may be made even after the thirty (30) day period has expired.
- (11) Where an extension of time is not granted by the Screening Officer, the administrative penalty is deemed to be affirmed.
- (12) A request for a first stage appeal or a request for an extension of time to commence a first stage appeal shall include the penalty order number, the person's contact information, and reasons for the appeal. The Screening Officer will consider the request for extension before commencing the first stage appeal.
- (13) The Screening Officer shall send a copy of the decision to the appellant by mail, courier or electronic means as soon as practical after the decision is made.
- (14) Subject to subsection 7(10) of this By-law, where a person fails to request a first stage appeal or extension of time in accordance with this By-law:
 - (a) the person shall be deemed to have waived the right to an appeal;
 - (b) the administrative penalty shall be deemed to be affirmed; and
 - (c) the administrative penalty shall not be subject to review.
- (15) Where the appellant fails to appear at the first stage appeal:
 - (a) the appellant shall be deemed to have abandoned the first stage appeal;
 - (b) the administrative penalty shall be deemed to be affirmed;
 - (c) the administrative penalty shall not be subject to a second stage appeal; and
 - (d) the appellant shall pay to the Town a no-show fee as set out in the rates and fees schedule, which shall be applied to the administrative penalty.

8. SECOND STAGE APPEAL - REVIEW OF SCREENING DECISION BY HEARING OFFICER

- (1) An appellant may commence a second stage appeal by requesting that the Screening Decision be reviewed by a Hearing Officer within thirty (30) days after the date of the Screening Decision.
- (2) The Town Solicitor shall determine whether the second stage appeal shall be conducted orally, electronically or in writing.
- (3) The appellant shall be notified:
 - (a) that their request for a second stage appeal has been received;
 - (b) of the date and time of the second stage appeal, if a date and time is set; and
 - (c) of the way in which the second stage appeal will be conducted according to subsection 8(2) of this By-law.
- (4) It is the appellant's responsibility to provide the Town with their current and correct telephone number and email address.
- (5) The Hearing Officer may confirm, vary or set aside the Screening Decision. For clarity, this may include confirming, varying or setting aside the penalty order.
- (6) In deciding whether to confirm, vary or set aside a penalty order, the Hearing Officer shall determine whether the Screening Decision was reasonable and may consider the information included in subsection 9(1) of this By-law.
- (7) The Hearing Officer shall not decide whether to confirm, vary or set aside a penalty order unless the appellant and a representative of the Town has been given an opportunity to make submissions in the same manner in which the second stage appeal is to be conducted.
- (8) No witnesses shall be called during a second stage appeal.
- (9) The appellant may request that the Hearing Officer extend the thirty (30) day period to request a second stage appeal. If the Hearing Officer considers it fair and appropriate in the circumstances, they may extend the thirty (30) day period to request the second stage appeal. The extension may be made even after the thirty (30) day period has expired.

- (10) Where an extension of time is not granted by the Hearing Officer, the administrative penalty is deemed to be affirmed.
- (11) A request for a second stage appeal or for an extension of time to request a second stage appeal shall include the penalty order number and the person's contact information. The Hearing Officer will consider the request for extension before commencing the second stage appeal.
- (12) The Hearing Officer shall send a copy of their decision to the appellant by mail, courier or electronic means as soon as practical after the decision is made.
- (13) Subject to subsection 8(9) of this By-law, where a person fails to request a second stage appeal or extension of time in accordance with this By-law:
 - (a) the person shall be deemed to have waived the right to a second stage appeal;
 - (b) the Screening Decision and the administrative penalty shall be deemed to be affirmed; and
 - (c) the Screening Decision and the administrative penalty shall not be subject to review.
- (14) Where the appellant fails to appear at the second stage appeal:
 - (a) the appellant shall be deemed to have abandoned the second stage appeal;
 - (b) the Screening Decision and the administrative penalty shall be deemed to be affirmed; and
 - (c) the appellant shall pay to the Town a no-show fee as set out in the rates and fees schedule, which shall be applied to the administrative penalty.
- (15) The decision of the Hearing Officer is final.

9. CONSIDERATIONS REGARDING DECISION

- (1) In deciding whether to confirm, vary or set aside a penalty order, the Screening Officer or Hearing Officer may consider the following information, if available:

- (a) photographs or images taken by the camera system;
- (b) statements, including certified statements, made by the Provincial Offences Officer who imposed the penalty order;
- (c) documents, including certified documents, setting out the name and address of the person who is subject to the order, a description of the permit and the number plate of the motor vehicle;
- (d) statements by the appellant, made either in writing or in the manner in which the appeal is conducted;
- (e) statements by or on behalf of the Town, made either in writing or in the manner in which the appeal is conducted;
- (f) any other information, materials or submissions that the Screening Officer or Hearing Officer considers to be credible or trustworthy in the circumstances.

10. GENERAL

- (1) A Screening Officer or Hearing Officer does not have 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.
- (2) If, before a final decision is made by a Screening Officer or Hearing Officer, they become aware that the person who is subject to the penalty order is charged with an offence under the Highway Traffic Act for the same contravention, the Screening Officer or Hearing Officer shall set aside the penalty order.
- (3) The Town may impose fees as set out in the rates and fees schedule for services rendered, including but not limited to the provision of transcripts, reproduction and mailing fees.
- (4) Fees for services in accordance with subsection 10 (3) shall:
 - (a) be collected before or at the time the service is rendered; and
 - (b) shall not be added to the administrative penalty.

11. REFERENCES

- (1) References in this By-law to any legislation or by-law means as may be amended or successor by-laws or legislation, and includes any regulations thereunder.

12. SEVERABILITY

- (1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

13. SHORT TITLE

- (1) This By-law may be known as the “Automated Speed Enforcement Administrative Penalty By-law”.

14. EFFECTIVE DATE

- (1) This By-law comes into force and effect on the day it is passed.

PASSED this 21st day of October, 2024

MAYOR

CLERK