
Administrative Penalties

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Purpose statement

The Town of Oakville (town) regulates and enforces the parking, standing or stopping of vehicles under various by-laws (“Designated Parking By-laws”). The Parking Administrative Penalties By-law provides for the issuance of an Administrative Penalty for contraventions of the Designated Parking By-laws. The town also regulates such things as business licensing, animal control and lot maintenance by by-law (“Regulatory By-laws”). Regulatory By-laws may be enforced by the issuance of Administrative Penalties.

This procedural document performs the following functions related to Designated Parking By-laws and to Regulatory By-laws that use a system of Administrative Penalties:

- Part 1 sets out the roles, responsibilities and general administration of Administrative Penalties that are issued under Designated Parking By-laws
- Part 2 – Conflict of Interest: establishes guidelines to ensure that the Administrative Penalty program is conducted in accordance with fundamental principles of justice
- Part 3 – Interference: establishes guidelines to deal with interference of any kind in the administration of the Administrative Penalty program
- Part 4 – Definitions: defines terms used in this procedure
- Part 5 – Responsibilities: sets out the Town staff who are responsible for this procedure
- Appendix A – Hearing Process: applies to all hearings to review a Screening Officer’s decision respecting Administrative Penalties
- Appendix B – Public Complaint Process: establishes a process for public complaints with respect to the administration of the Administrative Penalty program

Scope

This procedure applies to Designated Parking By-laws and to Regulatory By-laws as follows:

- Part 1 applies only to Designated Parking By-laws
- Part 2 – Conflict of Interest applies to both Designated Parking By-laws and Regulatory By-laws
- Part 3 – Interference applies to both Designated Parking By-laws and Regulatory By-laws
- Part 4 – Definitions applies to both Designated Parking By-laws and Regulatory By-laws
- Part 5 – Responsibilities applies to both Designated Parking By-laws and Regulatory By-laws
- Appendix A – Hearing Process applies to both Designated Parking By-laws and Regulatory By-laws
- Appendix B – Public Complaint Process applies to both Designated Parking By-laws and Regulatory By-laws

Part 1 - Procedure

Penalty Notice

1. Every person who contravenes a provision of a Designated Parking By-law shall, upon issuance of a Penalty Notice, be liable to pay to the town an Administrative Penalty in the amount specified and shall be liable to pay to the town any applicable Administrative Fees.
2. The *Provincial Offences Act* does not apply to contravention of a Designated Parking By-law.
3. An Officer who has reason to believe that a person has contravened any provision of a Designated Parking By-law may issue a Penalty Notice as soon as reasonably practicable.
4. The Penalty Notice issued to the person shall include the following information:
 - (a) the date of the Penalty Notice;
 - (b) the Penalty Notice Number;
 - (c) particulars of the contravention;
 - (d) the amount of the Administrative Penalty;
 - (e) information respecting the process by which the person may pay the Administrative Penalty or request a review of the Administrative Penalty; and
 - (f) a statement advising that an Administrative Penalty will constitute a debt of the person to the town.

Service of Notice or documents

5. Any notice or document that is mailed is deemed effective on the seventh (7th) calendar day after the date of mailing.
6. A Penalty Notice issued or served related to a Designated Parking By-law may be served in any of the following means and is deemed effective by:
 - (a) affixing it to the vehicle in a conspicuous place at the time of the contravention;
 - (b) delivering it personally to the operator of the vehicle or the person having care and control of the vehicle at the time of the contravention;
 - (c) mailing it to the Owner as soon as reasonably practicable; or
 - (d) delivering it personally to the Owner as soon as practicable.

Financial Management

7. An Administrative Penalty that is deemed to be affirmed is due and payable and constitutes a debt to the town.
8. No Officer may accept payment in respect of the Administrative Penalty.
9. Payment of an Administrative Penalty or an Administrative Fee can be made through a town approved payment system. Partial payments or payment plans will not be accepted.
10. Payments of an Administrative Penalty must be received by the due date and will not be credited until received by the town.
11. The town may pursue the collection of outstanding Administrative Penalties or Administrative Fees.
12. Where a person has paid an Administrative Penalty or an Administrative Fee that is cancelled or reduced by a Screening Officer or Hearing Officer, the town shall refund the amount cancelled or reduced.
13. For an Administrative Penalty related to Designated Parking By-laws:
 - (a) Any person who is served a Penalty Notice and who does not pay to the town the amount of the Administrative Penalty within fifteen (15) days of the Penalty Notice date shall pay to the town an MTO Search fee and a notice will be mailed to the Owner.
 - (b) Where an Administrative Penalty and any applicable Administrative Fees are not paid within 15 days after the date that it becomes due and payable, it shall be deemed to be affirmed, and each person to whom the Penalty Notice was issued shall pay to the town a late payment fee, and a notice will be mailed to the Owner.
 - (c) Where a person makes a request for an extension of time for a review or a request for an extension of time for payment and the request is granted, the Penalty Notice will not be subject to the Late Payment fee, until after the

- (d) Where an Administrative Penalty and any applicable Administrative Fees are not paid within 15 days after the date that it becomes due and payable, each person to whom the Penalty Notice was issued shall pay to the town an MTO Plate Denial fee. A notification will be sent to the Registrar of Motor Vehicles to collect the outstanding penalty and fees prior to vehicle licence registration.
- (e) Any person who is served a Penalty Notice by mail shall pay to the town a Service By Mail fee.
- (f) The town may impose Administrative Fees as established annually through the rates and fees schedule approved by Council as part of the annual budget

ADMINISTRATIVE FEES FOR PARKING	
Description	
Hearing No-show	
Late Payment	
MTO Plate Denial	
MTO Search	
Screening No-show	
Service By Mail	
Postponement Fee	

[illegible]

14. A person who receives a Penalty Notice may request a review by a Screening Officer within 15 days after the Penalty Notice date. If the person does not request a review, the Administrative Penalty shall be deemed to be affirmed.
15. Upon receipt of the request for review, the Screening Officer shall determine which method shall be used for the review, in-person, on the telephone, by email, or virtually by videoconference. Any virtual review by a Screening Officer shall be

conducted using such video/audio conferencing format as is determined by the Screening Officer and may be conducted completely separate and virtual for the Screening Officer and all parties or as a combination of in-person and virtual with the Screening Officer, Town staff, and/or the defendant as the case may be, as determined by the Screening Officer.

16. Written submissions to a Screening Officer shall be submitted to the Screening Officer by 12:00 noon on the day before the review. For any reviews which may be scheduled for a Monday, requests under this section shall be submitted by 12:00 noon on Friday.
17. A person may request that the Screening Officer extend the time to request a review within 45 days after the Penalty Notice date, failing which, the Administrative Penalty shall be deemed to be affirmed.
18. The Screening Officer may extend the time to request a review of the Administrative Penalty when the person requesting the extension demonstrates extenuating circumstances for failing to take action that warrants the extension of time. Where an extension of time is not granted by the Screening Officer, the Administrative Penalty is deemed to be affirmed.
19. A request for an extension of time to review shall include the Penalty Notice Number and the person's contact information. The Screening Officer will consider the request for extension before reviewing the Administrative Penalty.
20. If a person is granted an extension of time to pay, the Screening Officer shall record the extension so that the town's records can be updated accordingly.
21. On a review of the Administrative Penalty, the Screening Officer may affirm the Administrative Penalty, or the Screening Officer may cancel, reduce or extend the time for payment of the Administrative Penalty, including any late payment Administrative Fees, on the following grounds:
 - (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the Penalty Notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the Administrative Penalty, including any Administrative Fees, is necessary to reduce hardship.
22. Where a person fails to request a review or extension of time before the Screening Officer:
 - (a) the person shall be deemed to have waived the right to a screening and hearing;
 - (b) the Administrative Penalty shall be deemed to be affirmed; and
 - (c) the Administrative Penalty shall not be subject to review.

23. Where the person fails to Appear for screening at the time and place scheduled for a review by the Screening Officer:
- (a) the person shall be deemed to have abandoned the review;
 - (b) the Administrative Penalty shall be deemed to be affirmed;
 - (c) the Administrative Penalty shall not be subject to review; and
 - (d) the person shall pay the applicable fee.

Review by Hearing Officer

24. Any person who has received a Screening Decision may request a review of the Screening Decision by a Hearing Officer within 15 days after the Screening Decision was issued, failing which, the Administrative Penalty shall be deemed to be affirmed.
25. Upon receipt of a request for review of the Screening Decision, the Director of Municipal Enforcement Services, or designate, in consultation with the Legal Department, shall determine which method shall be used for the review, in-person, on the telephone, or virtually by videoconference.
26. Written submissions to a Hearing Officer and requests to participate in the review concerned electronically shall be submitted to the Hearing Officer by 12:00 noon on the day before the review. For any reviews which may be scheduled for a Monday, requests under this section shall be submitted by 12:00 noon on Friday.
27. Any virtual hearing by a Hearing Officer shall be conducted by such video/audio conferencing format as is determined by the Director and may be conducted completely separate and virtual for the Hearing Officer and all parties or as a combination of in-person and virtual with the Hearing Officer, Town staff, and/or the defendant as the case may be, as determined by the Director.
28. Any virtual hearing by a Hearing Officer may be live streamed on the Oakville Town Website and You Tube Channel, unless the Hearing Officer is of the opinion that the hearing should be held in the absence of the public in accordance with section 9(1) of the *Statutory Powers and Procedures Act*.
29. A person may request that the Hearing Officer extend the time to request a review within 45 days after the Screening Decision was issued.
30. The Hearing Officer may extend the time to request a review of the Screening Decision when the person requesting the extension demonstrates extenuating circumstances for failing to take action that warrants the extension of time. Where an extension of time is not granted by the Hearing Officer, the Screening Decision shall be deemed to be affirmed.
31. A request for an extension of time to review by the Hearing Officer shall include the Penalty Notice Number, the person's contact information and the reason the person

requires an extension of time to review. The Hearing Officer will consider the request for extension before reviewing the decision of the Screening Officer.

32. If a person is granted an extension of time to pay, the Hearing Officer shall record forthwith the extension so that the town's records can be updated accordingly.
33. A person may request a postponement of a scheduled review upon application to the Director, who may approve the request based on extenuating circumstances. An administration fee may be charged as set out in the Town's Rates and Fees Schedule.
34. On a review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or the Hearing Officer may cancel, reduce or extend the time for payment of the Administrative Penalty, including any Administrative Fees, on the following grounds:
 - (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the Penalty Notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the Administrative Penalty, including any Administrative Fees, is necessary to reduce hardship.
35. Where a person fails to request a review of the Screening Decision or extension of time before the Hearing Officer:
 - (a) the person shall be deemed to have waived the right to a hearing;
 - (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.
36. Where the person fails to appear whether in-person, on the telephone or virtually, as the case may be, at the time and place scheduled for a review by the Hearing Officer:
 - (a) the person shall be deemed to have abandoned the hearing;
 - (b) the Screening Decision and the Administrative Penalty shall be deemed to be final; and
 - (c) the person shall pay the applicable fee.
37. The Hearing Officer may amend the Penalty Notice as may be necessary if it appears that it fails to state or states defectively anything that is requisite to the violation. In considering whether or not an amendment should be made, the Hearing Officer shall consider whether the person has been misled or prejudiced by the error or omission and whether the proposed amendment can be made without injustice being done. Amendments to the Penalty Notice may include vehicle make, street name or fire route address.

Extension of time to pay

38. A person who receives a Penalty Notice and is appearing before the Screening Officer or Hearing Officer may request an extension of time to pay the penalty. The Screening Officer or Hearing Officer may extend the time for payment of an Administrative Penalty taking into consideration such factors as:
- (a) the amount of the Administrative Penalty and any Administrative Fees, and
 - (b) whether the person is employed, a student, retired or other circumstances that would render the payment an undue hardship.
39. The extension of time should not exceed 60 days from the date of the Screening or Hearings Officer's review, as the case may be.
40. If a person is granted an extension of time to pay, the Screening or Hearing Officer shall record the extension so that the town's records can be updated accordingly.

Undue hardship

41. The Screening Officer or Hearing Officer may excuse a person from paying all or part of the Administrative Penalty, including any Administrative Fees if requiring them to do so would cause undue hardship.
42. Any person claiming undue hardship must provide documented proof substantiating financial hardship, for example: Old Age Security, Canada Pension, Guaranteed Income Supplement, Disability Pension, student loans, Ontario Works, etc. All information and documentation shall be treated in a confidential manner.

Part 2 - Conflict of interest

43. The Screening Officer is a town employee who conducts reviews of Administrative Penalties. The Screening Officer must abide by the town's Employee Code of Conduct.
44. The Hearing Officer is appointed by the Town Solicitor (through delegated authority) to undertake reviews of a Screening Decision related to Administrative Penalties. Any Hearing Officer shall not be an employee of the town, but is bound by the *Statutory Powers and Procedure Act* R.S.O. 1990, c. S.22 and is obligated to conduct hearings in an impartial manner.
45. To prevent conflicts of interest, the Screening and Hearing Officer are required to disclose and withdraw from any requested reviews in which they have a financial interest, including any personal benefit, or any benefit to a relative of the Officer. A Screening or Hearing Officer shall not conduct or otherwise participate in a review of an Administrative Penalty issued to a relative or to a person in a close personal relationship.

46. The Screening and Hearing Officer shall disclose any actual or potential conflicts to the Town Solicitor, withdraw from the review and decision making process relevant to the conflict, and request for another Screening or Hearing Officer to conduct the review to avoid actual or potential conflicts of interest.
47. If all Screening and Hearing Officers have a conflict with a particular penalty, then the Town Solicitor shall retain another Screening or Hearing Officer.
48. Screening and Hearing Officers are not permitted to challenge their own or their relatives' Penalty Notices.
49. The Town Solicitor shall retain another Screening or Hearing Officer, at their discretion, where public confidence in administration of justice may be eroded.

Part 3 - Interference

50. No person shall attempt, directly or indirectly to influence a Screening Officer or a Hearing Officer respecting their review or decision in a proceeding that is or will be before the Screening Officer or Hearing Officer. Exceptions include:
 - (a) a person who is entitled to be heard in the proceeding or the person's lawyer or licensed paralegal; and
 - (b) only by that person or the person's lawyer, licensed paralegal or agent during the hearing of the proceeding in which the issue arises.
51. If a member of Town staff or an elected official attempts to influence a Screening or Hearing Officer contrary to this procedure, such incidents shall be addressed through the procedures of the applicable Town Code of Conduct. No action shall be taken against the Screening or Hearing Officer for making any such report in good faith.

References and related documents

Regulatory Services Policy
Accountability and Transparency Policy
Parking Administrative Monetary Penalties By-law
Licensing By-law
Other applicable by-laws
Screening and Hearing Officer By-law
Municipal Act, 2001
Statutory Powers and Procedures Act
Employee Code of Conduct
Code of Conduct for Members of Council and Local Board Members

Part 4 - Definitions

“Administrative fee” means any fee specified in the Parking Administrative Penalties By-law, which may be revised in the rates and fees schedule approved by Council as part of the annual budget approval process.

“Administrative penalty” means an administrative penalty established in the Parking Administrative Penalties By-law, Regulatory By-laws, and any other applicable by-law or as revised in the rates and fees schedule approved by Council as part of the annual budget approval process.

“Appear” means to attend in-person by telephone, or virtually by videoconference at the time, place or phone number scheduled for review by a Screening Officer or the Director in consultation with the Legal Department, as the case may be.

Code of Conduct means the Town’s Employee Code of Conduct or the Council Code of Conduct, as the context requires.

“Designated Parking By-law” means a by-law with respect to the parking, standing or stopping of vehicles that is designated under the Parking Administrative Penalties By-law and, if only a part of a by-law is designated, includes only the designated part of the by-law.

“Hearing Officer” means each person appointed from time to time performing the functions of a Hearing Officer pursuant to the Parking Administrative Penalties By-law or Regulatory By-laws.

“Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers and Halton Regional Police Officers.

“Owner” means the registered owner of a vehicle as provided by the Ministry of Transportation (“MTO”) or similar authority.

“Penalty Notice” means a notice issued pursuant to the Parking Administrative Penalties By-law or to Regulatory By-laws.

“Person” means an individual, corporation, sole proprietorship, association or partnership.

Regulatory By-laws: means by-laws, other than Designated Parking By-laws, that are enforced by way of Administrative Penalties.

“Screening decision” means a decision made by a Screening Officer.

“Screening Officer” means each person performing the functions of a Screening Officer pursuant to the Parking Administrative Penalties By-law or to Regulatory By-laws.

Part 5 - Responsibilities

The Director of Municipal Enforcement Services or designate shall be responsible for the administration of this procedure.

The Hearing Officer shall be responsible for ensuring that the hearing follows the process outlined in Appendix A.

The Town Solicitor shall be responsible for appointing Screening and Hearing Officers in accordance with the applicable Town By-laws and Policy. Preference shall be given to candidates possessing the following qualifications:

- lawyers or licensed paralegals
- knowledge of the *Provincial Offences Act*, *Highway Traffic Act*, Traffic/Parking and Regulatory By-laws, and other related Town by-laws and Provincial Statutes
- experience with conflict resolution and negotiating skills.

Appendices

Appendix A - Hearing Process

Appendix B - Complaints Process

Appendix A Hearing Process

This procedure applies to all hearings to review a Screening Officer's decision for Administrative Penalties issued for contraventions of Designated Parking By-laws and Regulatory By-laws within the town. The *Statutory Powers and Procedures Act* applies to a review by a Hearing Officer.

The format and responsibilities of the hearing shall be as follows:

1. Hearing Officer:

- (a) Call proceedings to order
- (b) Record participant(s) name(s) and relevance to the Hearing
 - Advise attendees of procedures to be followed, including:
 - All hearings shall be open to the public unless the Hearings Officer is of the opinion that the hearing should be held in the absence of the public in accordance with section 9(1) of the *Statutory Powers and Procedures Act*
- (c) Town staff will present first and then the Appellant.
- (d) Administer oaths or affirmations from any witnesses
- (e) Maintain order of the hearing

- (f) Review applications for extensions of time to request a review of a Screening Decision
- (g) Record all persons who fail to appear at the time and place scheduled for a review by the Hearing Officer
- (h) Ask questions of witnesses, Town staff, Appellant
- (i) The decision of the Hearing Officer is final

2. Town Staff:

- (a) Present any opening remarks
- (b) Call witnesses for town
- (c) May ask questions of Appellant/witnesses
- (d) Answer questions of Hearing Officer

3. Appellant:

- (a) Take Oath or make Affirmation – if giving evidence
- (b) Present their testimony
- (c) May ask questions of witnesses
- (d) Answer questions of Town Staff and/or Hearing Officer

4. Any Witnesses:

- (a) Take Oath or make Affirmation
- (b) Present their testimony
- (c) Answer questions of Town Staff, Appellant and/or Hearing Officer

5. Appellant:

- (a) Present any closing remarks

6. Town Staff:

- (b) Present any closing remarks
- (c) Speak to penalty

7. Hearing Officer:

- (a) If required, ask for any further clarification
- (b) Amend the Penalty Notice as may be necessary, as permitted by law
- (c) Announce final decision providing brief reasons, not disclosing any confidential matter
- (d) Record the final decision and provide copy to Appellant.

Appendix B

Public Complaint Process

1. A member of the public who has a complaint with respect to the administration of the system of Administrative Penalties (“APS”) may file the complaint provided that the member of the public has been directly affected by the administration of the system. This procedure is not intended to replace other town or legal processes available to address the Complainant’s concerns, such as allegations of misconduct by an employee(s) of the Corporation or a Hearing Officer.
2. The following procedure will be followed should a complaint be made with respect to the administration of the system of APS:

Format of Complaint

- (a) Complaints must be in writing and must identify the name and full contact particulars of the Complainant. Complaints that are anonymous will not be accepted. The Complainant may be asked to provide additional written details, supporting documentation, and records concerning the complaint before the investigation can be commenced.

Designated Complaints Investigator:

- (b) For complaints with respect to the administration of the system of APS, the Director, Municipal Enforcement Services or designate is the Designated Complaints Investigator. For complaints with respect to Screening Officers or Hearing Officers, the Town Solicitor or designate is the Designated Complaints Investigator. .

Time Limitation

- (c) The written complaint must be received within 7 days of the occurrence date. This time limitation may only be extended when, in the opinion of the Designated Complaints Investigator, extenuating circumstances exist to justify the extension.

Process

- (d) Upon receipt of a Formal Complaint, the Designated Complaints Investigator will first make a determination whether the issue falls within the scope of this procedure and may not consider Complaints that are frivolous, vexatious, trivial or made in bad faith.

Declining Investigation

- (e) If the Designated Complaints Investigator declines to investigate the formal complaint under this procedure they shall:
 - i. Notify the Complainant of the decision by a written letter within 10 working days from the date the complaint was received; and
 - ii. Provide any employee or Hearing Officer that is the subject of the complaint, a copy of the written complaint and the Decline Investigation Letter.

Investigation

- (f) The Designated Complaints Investigator determines that the issue falls within the scope of this procedure, they will commence a full investigation and may:
 - i. Meet with the Complainant and the subject employee(s) or Hearing Officer independently;
 - ii. Attempt to obtain as much information as possible;
 - iii. Obtain and review any applicable documents, information or records;
 - iv. Meet with other individuals or witnesses who have relevant information regarding the matter(s) under investigation;
 - v. Obtain assistance from other senior staff when investigating a complaint of a very serious nature; and
 - vi. Request a third party investigation if deemed necessary.

Decision

- (g) Upon conclusion of the investigation, the Designated Complaints Investigator will:
 - i. Provide a written response to the Complainant within 30 business days from the date of the complaint was received setting out their decision.

Withdrawal of Complaint

- (h) A Complainant may withdraw their complaint at any time; notwithstanding any withdrawal, the town may continue to deal with the complaint if it considers it appropriate to do so. Any request to withdraw the complaint must be submitted in writing.

Confidentiality

- (i) The public complaint resolution mechanism will be handled in as confidential a manner as possible. Complaints, respondents and witnesses will be advised to maintain confidentiality concerning complaints or incidents.