

BY-LAW NO. 2024 – XX

A by-law of the City of Ottawa to establish the positions of screening and hearing officers for the purposes of the administrative monetary penalty system.

WHEREAS sections 8, 9, 10 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") authorize the municipality to pass by-laws necessary or desirable for municipal purposes;

AND WHEREAS Sections 102.1 of the *Municipal Act, 2001* and O.Reg 333/07, as amended, respecting administrative penalties for parking by-laws and section 434.1 of the *Municipal Act, 2001*, authorize municipalities to establish an administrative monetary penalty system requiring a person to pay an administrative penalty for a contravention of any designated by-law passed under the *Municipal Act, 2001*;

AND WHEREAS Section 21.1 of the *Highway Traffic Act*, R.S.O., 1990, c.H.8, as amended ("*Highway Traffic Act, 1990*") and O. Reg. 355/22 respecting Administrative Penalties for Contraventions Detected Using Camera Systems, authorize municipalities to establish an administrative monetary penalty system in order to promote compliance with this Act and the regulations, requiring a person to pay an administrative penalty for a contravention of subsection 128(1) of the *Highway Traffic Act, 1990* obtained through the use of an automated speed enforcement system under Part XIV.1 of the Act, and for a contravention of subsection 144(18) of the *Highway Traffic Act, 1990* obtained through the use of a red light camera system under Part XIV.2 of the Act;

AND WHEREAS on XXXX, XXXX, 2024, Council enacted the Administrative Penalty System By-law for the purposes of implementing the administrative monetary penalty system within the City of Ottawa;

AND WHEREAS in accordance with the Administrative Penalty System By-laws and applicable legislation, 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 municipality;

AND WHEREAS pursuant to the Administrative Penalty System By-laws and applicable legislation, 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 subsections 23.1, 23.2(1)(c) and 23.3(2) of the *Municipal Act, 2001*, authorize the municipality to delegate administrative powers to an individual who is an officer, employee or agent of the municipality;

AND WHEREAS the City of Ottawa considers it desirable and necessary to establish the positions of Screening Officer and Hearing Officer as further described in

this by-law, which are required for the operation of the City's Administrative Penalty System By-laws;

THEREFORE Council of the City of Ottawa enacts as follows:

PART I – SHORT TITLE

1. This By-law may be referred to as the "Screening and Hearing Officer By-law".

PART II - DEFINITIONS

2. For the purposes of this By-law:

"Administrative Penalty" means a monetary penalty imposed for a contravention of a Designated By-law as set out in the Administrative Penalty By-laws;

"Administrative Penalty By-laws" means the City's Administrative Penalty System By-law XXXXX, as amended (or its successor), being a by-law to establish a system of administrative penalties respecting the stopping, standing or parking of vehicles in the City of Ottawa and the City's Administrative Penalty System By-law XXXX, as amended (or its successor), being a by-law to establish a system of administrative penalties for vehicle-based contraventions captured by red light camera systems and automated speed enforcement camera systems in the City of Ottawa

"City" means the City of Ottawa;

"City Clerk" means the City Clerk of the City of Ottawa and their designate;

"City Solicitor" means the City Solicitor of the City of Ottawa and their designate;

"Council" means the elected Council of the City of Ottawa;

"Director Service Ottawa" means the Director of Service Ottawa and their designate;

"General Manager, Finance and Corporate Services Department" means the General Manager, Finance and Corporate Services Department and their designate;

"Hearing Officer" means a person appointed from time to time pursuant to this By-law performing the functions of a Hearing Officer for the purposes of the administrative monetary penalty system, and is deemed to be a person who is not an employee of the City but who holds an administrative position of the City;

"Power of Decision" means a power or right, conferred by or under this By-law and the Administrative Penalty By-laws, 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 an appeal from a Screening Decision.

"Regulations" means the Administrative Penalties regulation O. Reg. 333/07, as amended and O. Reg. 355/22 respecting Administrative Penalties for Contraventions Detected Using Camera Systems;

"Screening Decision" means a decision made by a Screening Officer;

"Screening Officer" means a person appointed from time to time pursuant to this Bylaw performing the functions of a Screening Officer for the purposes of the administrative monetary penalty system and who is a person who is deemed an employee of the City;

PART III - SCREENING OFFICER

- 3. The position of Screening Officer is established for the purpose of exercising the Power of Decision in the first review of an administrative penalty as set out in the City's Administrative Penalty By-laws.
- 4. The Screening Officer shall have all of the powers of review as set out in the City's Administrative Penalty System By-laws, applicable legislation and policies.
- 5. A Screening Officer shall be appointed the Director of Service Ottawa, and preference shall be given to an eligible candidate with knowledge of and experience in administrative law and in interpreting legislation and policies.

PARI IV - HEARING OFFICER

- 6. The position of the Hearing Officer is established for the purpose of exercising the Power of Decision in the appeal of a Screening Decision as set out in the City's Administrative Penalty By-laws.
- 7. The Hearing Officer shall have all of the powers of review as set out in the City's Administrative Penalty By-laws, applicable legislation and policies.
- 8. A Hearing Officer shall be appointed by Council upon the recommendation of a selection panel including the General Manager, Finance and Corporate Services Department, the Director of ServiceOttawa and the City Clerk. Preference shall be given to an eligible candidate with knowledge of and experience in administrative law and in interpreting legislation and policies.

PART IV - GENERAL PROVISIONS

9. The following persons are not eligible for appointment as a Screening Officer or a Hearing Officer:

- (a) a member of Council;
- (b) a spouse, child or parent of a member of Council;
- (c) in the case of a Hearing Officer, an employee of the City; or
- (d) 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.

10. The Director of ServiceOttawa, in consultation with the City Clerk and the City Solicitor, are hereby delegated the authority to establish appointment policies for Screening Officers and for Hearing Officers, together with the authority to determine the appropriate terms and conditions of such appointments. The Director of ServiceOttawa may appoint or rescind the appointment of Screening Officers in accordance with such policies and recommend that Council rescind its appointment of a Hearing Officer.

11. A Screening Officer shall be appointed for such period and subject to such terms and conditions as may be determined by the Director of ServiceOttawa as further described in sections 5 and 10 and in accordance with the City's employment policies and guidelines.

12. Hearing Officers shall be appointed for such period and subject to such terms and conditions as may be recommended by City staff to Council, as described further described in sections 8 and 10 and shall be remunerated at the rate from time to time established by Council.

13. This By-law shall come into force and take effect on month day, , 2024.

ENACTED AND PASSED this x day of XXXXXX 2024.

DEPUTY CITY CLERK

MAYOR

SCHEDULE "B"

BY-LAW NO. 2024-XX

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LEGAL SERVICES
JMP

COUNCIL AUTHORITY:
City Council –