

THE REGIONAL MUNICIPALITY OF YORK

BYLAW NO. 2024-38

A Bylaw to Establish an Administrative Penalty Tribunal
and to Establish the Roles of Screening and Hearing Officers

WHEREAS section 434.1 of the *Municipal Act, 2001*, provides that a municipality may 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, 2001*;

AND WHEREAS section 21.1 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, provides that an administrative penalty may be imposed under that section by authorized persons in order to promote compliance with the *Highway Traffic Act* and the regulations;

AND WHEREAS the Region desires to utilize administrative monetary penalties to enforce certain of its bylaw provisions and to promote compliance with certain provisions of the *Highway Traffic Act*;

AND WHEREAS sections 23.1 and 23.5 of the *Municipal Act, 2001* and the Region's Delegation of Powers and Duties of Regional Council policy authorize the Region to delegate its administrative, quasi-judicial, legislative, and hearing powers and duties to an individual who is an officer, employee or agent of the Region, subject to certain conditions and restrictions;

AND WHEREAS Regional Council is of the opinion that the delegations of legislative power under this bylaw are of a minor nature having regard to the number of people, the size of the geographic area, and the time period affected by the exercise of such delegated power;

AND WHEREAS Regional Council considers it desirable and necessary to establish an administrative penalty tribunal for the Region, including establishing the positions of Screening Officer and Hearing Officer to hear appeals of administrative penalty orders;

NOW THEREFORE, the Council of The Regional Municipality of York enacts as follows:

PART I: INTERPRETATION AND DEFINITIONS

1. DEFINITIONS

1.1 In this bylaw:

“Chief Administrative Officer” means the Chief Administrative Officer of The Regional Municipality of York as appointed by bylaw, their delegate, or anyone designated by the Chief Administrative Officer to perform duties pursuant to this bylaw;

“Hearing Officer” means a person appointed from time to time in accordance with section **Error! Reference source not found.** of this bylaw;

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8;

“Parent” means a person who has demonstrated a settled intention to treat a child as a member of their family, whether or not that person is the natural parent of the child;

“Provincial Information” means information licenced or otherwise made available to the Region by the Province;

“Regional Council Member” means a Regional Council member;

“Municipal Act, 2001” means *Municipal Act, 2001*, S.O. 2001, c. 25;

“Person” includes an individual;

“Procedure Bylaw” means Bylaw 2018-59 being A bylaw to Govern the Proceedings of Council and its Committees, and any successor to that bylaw;

“Provincial Offences Act” means the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

“Region” means The Regional Municipality of York and, where the context requires, its geographic area;

“Regional Council” means the municipal council of the Region;

“Regional Solicitor” means the Region’s Regional Solicitor and General Counsel, their delegate, or anyone designated by the Regional Solicitor to perform duties pursuant to this bylaw;

“Related Legislation” means the *Municipal Act, 2001*, *Highway Traffic Act*, *Provincial Offences Act*, *Statutory Powers and Procedures Act*, and any bylaws of the Region;

“Relative” includes any of the following persons:

- (a) Spouse;
- (b) Parent or legal guardian (including a step-parent);
- (c) Child, including a child, step-child, grandchild and step-grandchild;
- (d) Siblings and children of siblings;
- (e) The sibling of a parent (for example, aunt or uncle);

- (f) The children of a sibling of a parent (for example, niece or nephew);
- (g) Father-in-law, mother-in-law, sibling-in-law and includes step in-laws; and
- (h) A legal dependent.

“Screening Officer” means a person hired from time to time in accordance with section 4.2 of this bylaw; and

“Spouse” means any person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage, including a same-sex partner;

“Statutory Powers and Procedures Act” means the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22; and

“York Region Administrative Penalty Tribunal” means the administrative penalty tribunal established to hear appeals of administrative penalty orders in accordance with section 3 of this bylaw.

2. INTERPRETATION

2.1 Should any provision, or any part of a provision, of this bylaw be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of the Region that such a provision, or part of a provision, shall be severed from this bylaw, and every other provision of this bylaw shall be applied and enforced in accordance with its terms to the extent possible according to law.

2.2 Unless otherwise stated:

- (a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended, modified, restated, or replaced from time to time and proceedings authorized under the statute or regulation shall not be affected unless expressly provided;
- (b) a reference to a bylaw refers to a bylaw of the Region as it may be amended or replaced from time to time;
- (c) a reference to a section, paragraph, clause, or subclause is a reference to this bylaw’s section, paragraph, clause, or subclause; and
- (d) the word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

2.3 A schedule to this bylaw shall form part of the bylaw.

- 2.4 This bylaw applies to designated provisions.

PART II: THE TRIBUNAL

3. TRIBUNAL

- 3.1 The York Region Administrative Penalty Tribunal is constituted for the Region.
- 3.2 The York Region Administrative Penalty Tribunal may adopt its own rules of procedure provided that the rules are consistent with the *Statutory Powers and Procedures Act* and with the other acts to which they relate, including but not limited to the *Municipal Act, 2001*, and the *Highway Traffic Act*.
- 3.3 Business meetings of the York Region Administrative Penalty Tribunal shall be conducted by a panel of the Hearing Officers appointed by the Region. Business meetings of the York Region Administrative Penalty Tribunal shall be conducted in accordance with the Procedure Bylaw which shall be interpreted in a manner so as to apply to the Tribunal.
- 3.4 Hearings of the York Region Administrative Penalty Tribunal shall be conducted by a panel comprised of one member.

4. APPOINTMENTS

Screening Officer

- 4.1 The position of Screening Officer is established for the purpose of exercising the duties, functions, and decision-making powers set out for a Screening Officer by a bylaw of the Region.
- 4.2 The Chief Administrative Officer may hire, employ, discipline and appoint, including termination and revocation of appointment, in accordance with any applicable Regional bylaws or policies.
- 4.3 In hiring a Screening Officer, the Chief Administrative Officer shall give preference to the following qualifications of candidates:
- (a) good character;
 - (b) knowledge of, and experience in, interpreting and applying legislation, including municipal bylaws, the *Highway Traffic Act*, and the *Municipal Act, 2001*;
 - (c) the ability to act impartially and maintain impartiality;
 - (d) knowledge of and experience in the practice of administrative law, alternative dispute resolution, adjudication and decision-making;

- (e) effective leadership, facilitation, communication, presentation, and organizational skills; and
- (f) knowledge of and experience in the use of technology in the performance of work duties, including virtual conferencing technology.

Hearing Officer

- 4.4 The position of Hearing Officer is established for the purpose of exercising the duties and functions and decision-making powers set out for the Hearing Officer by a bylaw of the Region.
- 4.5 From time to time, the Regional Solicitor shall recommend to Regional Council, candidates for the appointment to the role of Hearing Officer that demonstrate the minimum following qualifications:
- (a) good character;
 - (b) knowledge of, and experience in, interpreting and applying legislation, including municipal bylaws, the *Highway Traffic Act*, and the *Municipal Act, 2001*;
 - (c) the ability to act impartially and maintain impartiality;
 - (d) knowledge of and experience in the practice of administrative law, alternative dispute resolution, adjudication and decision-making;
 - (e) effective leadership, facilitation, communication, presentation, and organizational skills; and
 - (f) knowledge of and experience in the use of technology in the performance of work duties, including virtual conferencing technology.
- 4.6 Regional Council may, in its sole discretion, pass resolutions to:
- (a) appoint one or more Hearing Officers on such terms and conditions as it may determine from time to time; and
 - (b) revoke the appointment of one or more Hearing Officers.
- 4.7 A Hearing Officer shall be appointed for such time period as may be determined by Regional Council and the appointment shall be subject to such other terms and conditions as may be determined by the Regional Solicitor.
- 4.8 A Hearing Officer shall be remunerated at the rate established by Regional Council from time to time.
- 4.9 The following Persons are not eligible for appointment as either a Screening Officer or a Hearing Officer:

- (a) a Regional Council Member;
 - (b) a Relative of a Regional Council Member;
 - (c) in the case of a Hearing Officer, an employee of the Region;
 - (d) a person indebted to the Region for failure to pay administrative penalties or fines pursuant to any statute or bylaw, including all or a combination of the *Municipal Act, 2001*, *Highway Traffic Act*, or *Provincial Offences Act*, and
 - (e) a Person that is not authorized by law, including pursuant to an agreement with the Province of Ontario, to access Provincial Information.
- 4.10 An appointment pursuant to this bylaw is deemed revoked if the appointed Person becomes ineligible for appointment pursuant to section 4.9.
- 4.11 Any delegation of authority to a Screening Officer or Hearing Officer pursuant to this bylaw may not be delegated by the Screening Officer or Hearing Officer.

PART III: GENERAL

5. ENFORCEMENT

- 5.1 No Person shall attempt to directly or indirectly communicate with or influence either a Screening Officer or a Hearing Officer regarding the determination of an issue in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, as the case may be, except in the course of a proceeding in which the Person is entitled or permitted to be heard in accordance with the rules of the York Region Administrative Penalty Tribunal.
- 5.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this bylaw.
- 5.3 No Person shall omit information or make a false or intentionally misleading statement, representation or other recital in any hearing or form or document made or submitted pursuant to this bylaw.
- 5.4 Nothing in this bylaw prevents a Screening Officer or Hearing Officer from seeking or receiving legal advice in respect of an issue in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, as the case may be.
- 5.5 For the purposes of section 23.2(4) of the *Municipal Act, 2001*, Regional Council has determined that the powers delegated to the Screening Officer and the Hearing Officer pursuant to this bylaw are of a minor nature.

- 5.6 The powers and duties delegated in this bylaw include any powers and duties incidental to carrying out the powers described in this bylaw and any Related Legislation. Every Person who contravenes any of subsections 5.1, 5.2 or 5.3 of this bylaw is guilty of an offence and is liable, upon conviction, to a fine, and such other penalties, as provided for in the *Provincial Offences Act*.
- 5.7 If a corporation has contravened a provision of this bylaw, every director and officer who knowingly concurred in such a contravention is guilty of an offence.
- 5.8 Every person who is guilty of an offence under this bylaw shall be subject to the following penalties:
- (a) upon a first conviction, to a fine of not less than \$100 and not more than \$100,000;
 - (b) upon a second or subsequent conviction for the same offence, to a fine of not less than \$400 and not more than \$100,000;
 - (c) upon conviction for a continuing offence, to a fine of not less than \$400 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000; and
 - (d) upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$400 and not more than \$10,000. The total of all fines for each included offence may exceed \$100,000.
- 5.9 For the purposes of this bylaw an offence is a “second or subsequent offence:” if the act giving rise to the offence occurred after a conviction has been entered at an earlier date for the same offence and a “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this bylaw.
- 5.10 If an order other than an administrative penalty order has been issued under this bylaw or by the court, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.

6. SHORT TITLE

- 6.1 This bylaw may be referred to as the “The Administrative Penalty Tribunal Bylaw”.

7. EFFECTIVE DATE

- 7.1 This bylaw shall come into force and effect on October 1, 2024.

ENACTED AND PASSED on September 19, 2024.

Regional Clerk

Regional Chair

*Authorized by Item J.2.5 of the Committee of the Whole of September 14, 2023,
adopted by Regional Council at its meeting on September 28, 2023*

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