

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW #31-2025

Being a By-law to delegate administrative and hearing powers to Screening and Hearing Officers, for adjudication of reviews and appeals for Administrative Penalties

WHEREAS Section 4 of O. Regulation 355/22 made under the *Highway Traffic Act*, R.S.O. 1990, c.H.9 as amended (the "HTA"), prescribes persons authorized to impose an administrative penalty for contraventions detected using camera systems, with such persons meeting the criteria as designated in this section; and

WHEREAS Section 21.1 of the HTA and O. Reg. 355/22, authorizes a municipality to establish an administrative penalty system to promote compliance with the HTA and its Regulations, and impose administrative penalties within a prescribed time period on a prescribed class of persons that have contravened or failed to comply with prescribed provisions of the HTA and its Regulations; and

WHEREAS Section 434.1 of the *Municipal Act*, S.O. 2001, c.25, permits the Town of Shelburne 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; and

WHEREAS sections 23.2, 23.3 and 23.5 of the *Municipal Act* authorizes the Town of Shelburne to delegate its administrative and hearing powers; and

WHEREAS the Province adopted the Administrative Penalties Regulation, O. Reg 355/22, pursuant to the HTA which applies to administrative penalties in respect of contraventions detected using camera systems; and

WHEREAS under the Administrative Penalties 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 under the Administrative Penalties 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 Town of Shelburne considers it desirable and necessary to establish the position of Screening Officer and Hearing Officer which are required for the operation of the Township's Administrative Penalty By-law;

NOW THEREFORE Council of The Corporation of the Town of Shelburne hereby enacts as follows:

1.0 TITLE

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

2.0 DEFINITIONS

2.1 For the purposes of this By-law:

Administrative Penalty - means a monetary penalty as set out and calculated in accordance with Section 6 of O. Reg 355/22;

CAO - means the Chief Administrative Officer, or their delegate(s);

Council - means the elected Council of the Town of Shelburne;

Power of Decision - means a power or right, conferred by or under this By-law and the Administrative Penalty By-law, 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.

Hearing Officer - means a person from time to time appointed by Council 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; and

Person - includes an individual and a corporation;

Regulation - means the Administrative Penalties Regulation for Contraventions Detected Using Camera Systems, O. Reg 355/22;

Relative includes any of the following persons:

- a) Spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
- b) Parent;
- c) Child, including a stepchild and grandchild;
- d) Siblings and children of siblings;
- e) Aunt, uncle, niece and nephew;
- f) In laws, including mother, father, sister, brother, daughter and son; or
- g) Any person who lives with the person on a permanent basis;
- h) "Screening Decision" means a notice which contains the decision of a Screening Officer;

Screening Officer - means a person from time to time appointed by Council pursuant to this By-law.

Spouse - means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

Town - means The Corporation of the Town of Shelburne.

3.0 SCREENING OFFICER

- 3.1 The position of Screening Officer is established for the purpose of exercising the Power of Decision in the review of an Administrative Penalty as set out in the Township's Administrative Penalty By-law.
- 3.2 The Screening Officer shall have all of the powers of review as set out in the Township's Administrative Penalty By-law and the Regulation.
- 3.3 A Screening Officer shall be appointed by Council in accordance with Ontario Regulation 355/22.

4.0 HEARING OFFICER

- 4.1 The position of 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-law.
- 4.2 The Hearing Officer shall have all of the powers of review as set out in the Township's Administrative Penalty By-law and the Regulation.
- 4.3 A Hearing Officer shall be appointed by Council in accordance with Ontario Regulation 355/22.

5.0 GENERAL PROVISIONS

- 5.1 The following persons are not eligible for appointments as a Screening Officer or a Hearing Officer:
 1. A member of Council;
 2. The Relative of a person referenced in subsection 5.1 (1); or
 3. A person indebted to the Township other than
 - a) in respect of current real property taxes; or
 - b) pursuant to an agreement with the municipality the terms with which the person is in compliance.
- 5.2 No Person shall attempt, directly or indirectly, to communicate with or influence a Screening Officer or a 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 representative and only by that person or the person's lawyer or licensed representative during the hearing of the proceeding in which the issue arises.
- 5.3 Section 5.2 does not prevent a Screening Officer or a Hearing Officer from seeking and receiving legal advice.
- 5.4 Any Person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a maximum fine as established pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.
- 5.5 A Screening Officer or a Hearing Officer shall have no authority to further delegate his/her powers or duties.
- 5.6 Neither a Screening Officer or a Hearing Officer has the 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.

6.0 EFFECTIVE DATE AND VALIDITY

6.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

6.2 That this bylaw shall come into force and take effect from the final passing thereof.

Passed in Open Council this 8th day of September 2025.

MAYOR

CLERK

Written approval of this by-law was given by Mayoral Decision _____ dated _____, 2025.