

Corporation of the City of Clarence-Rockland

By-Law 2022-33

A by-law to establish an Administrative Monetary Penalty System in City of Clarence-Rockland.

Whereas subsection 102.1 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended ("Municipal Act, 2001"), provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person failed to comply with any by-laws respecting the parking, standing or stopping of vehicles; and

Whereas Section 434.1 (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 passed under the Municipal Act, 2001; and

Whereas Sections 23.2, 23.3 and 23.5 of the Municipal Act, 2001 provides that a municipality may delegate its administrative and hearing powers; and

Whereas Section 391 of the Municipal Act, 2001 authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it; and

Whereas the Council for the City of Clarence-Rockland considers it desirable and necessary to provide for a system of administrative penalties and administrative fees for its designated by-laws, or portions of its designated by-laws;

Now therefore the Council of The Corporation of the City of Clarence-Rockland enacts as follows:

1. Definitions

In this By-law:

- 1.1. *Administrative Fee* means any fee specified in this By-law or set out in the in the attached schedules;
- 1.2. *Administrative Penalty* means an administrative penalty established by this By-law or set out in the attached schedules;

- 1.3. *AMPS* means Administrative Monetary Penalty System;
- 1.4. *Authorized Representative* means someone appearing on behalf of a Person in accordance with a written authorization provided upon request to the Manager of Municipal Law Enforcement Services, and who is not required to be licensed by any professional body;
- 1.5. *Director of Construction and Protective Services* means the City's Director of Construction and Protective Services or any person delegated by them;
- 1.6. *City* means The Corporation of the City of Clarence-Rockland;
- 1.7. *Clerk* means the City Clerk, or any person delegated by them;
- 1.8. *Council* means the Council of the City;
- 1.9. *Day* means any calendar day;
- 1.10. *Designated By-law* means a by-law, or a part or provision of a by-law, that is designated under this or any other by-law, and is listed in the attached schedules;
- 1.11. *Hearing Non-appearance Fee* means an Administrative Fee established by Council from time to time in respect of a Person's failure to appear at the time and place scheduled for a review before a Hearing Officer and listed in the attached schedules;
- 1.12. *Hearing Decision* means a notice that contains a decision made by a Hearing Officer;
- 1.13. *Hearing Officer* means a person who performs the functions of a Hearing Officer in accordance with Section 6 of this By-law, and pursuant to the City's Hearing Officer By-law, as amended from time to time;
- 1.14. *Holiday* means a Saturday, Sunday, any statutory holiday in the Province of Ontario or any Day the offices of the City are officially closed for business;
- 1.15. *Late Payment Fee* means an Administrative Fee established by Council from time to time in respect of a Person's failure to pay an Administrative Penalty within the time prescribed in this By-law and listed in the attached schedules;
- 1.16. *MTO Fee* means an Administrative Fee established by Council from time to time for any search of the records of, or any inquiry to, the Ontario Ministry of Transportation, or related authority, and listed in the attached schedule;

- 1.17. *NSF Fee* means an Administrative Fee established by Council from time to time in respect of payment by negotiable instrument or credit card received by the City from a Person for payment of any Administrative Penalty or Administrative Fee, for which there are insufficient funds available in the account on which the instrument was drawn, as listed in the City's User Fees and Charges By-law;
- 1.18. *Officer* means a Provincial Offences Officer of the City or other person appointed by or under the authority of a City by-law to enforce City by-laws;
- 1.19. *Penalty Notice* means a notice given to a Person pursuant to section 3.0 of this By-law;
- 1.20. *Penalty Notice Date* means the date of the contravention specified on the Penalty Notice, in accordance with section 3.3 of this By-law;
- 1.21. *Penalty Notice Number* means the reference number specified on the Penalty Notice that is unique to that Penalty Notice, in accordance with section 3.3 of this By-law;
- 1.22. *Person* includes an individual or a business name, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof, and, in relation to vehicle, parking or traffic-related contraventions, whose name appears on the vehicle permit as provided by the Ontario Ministry of Transportation. If the vehicle permit consists of a vehicle portion and licence plate portion, and different Persons are named on each portion, the Person whose name appears on the licence plate portion, as provided by the Ontario Ministry of Transportation, is the Person for the purposes of this By-law;
- 1.23. *Plate Denial Fee* means an Administrative Fee established by Council from time to time in respect of a Person's failure to pay within the time prescribed prior to a request for plate denial and listed in the attached schedule;
- 1.24. *Regulation* means Ontario Regulation 333/07 under the Municipal Act;
- 1.25. *Request for Review by a Hearing Officer* means the request which may be made in accordance with section 5 of this By-law for the review of a Screening Decision;

- 1.26. *Request for Review by Screening Officer* means the request made in accordance with section 5 of this By-law for the review of a Penalty Notice;
- 1.27. *Review by a Hearing Officer* and *Hearing* mean the process set out in section 6 of this By-law;
- 1.28. *Review by Screening Officer* and *Screening Review* mean the process set out in section 6 of this By-law;
- 1.29. *Screening Decision* means a notice which contains the decision of a Screening Officer, delivered in accordance with Section 5.13 of this By-law;
- 1.30. *Screening Non-appearance Fee* means an Administrative Fee established by Council from time to time in respect of a Person's failure to appear at the time and place scheduled for a review before a Screening Officer and listed in the attached schedule; and,
- 1.31. *Screening Officer* means Manager of Municipal Enforcement or any person who performs the functions of a Screening Officer in accordance with section 5 of this By-law, as designated by the Director, Construction and Protective Services.

2. *Application of this by-law*

- 2.1 The City by-laws, or portions of City by-laws, listed in the attached Schedule "A" of this By-law shall be Designated By-laws for the purposes of sections 102.1 and 151 of the Municipal Act, 2001 and paragraph 3(1)(b) of the Regulation. The attached Schedule "A" sets out the short form language to be used on Penalty Notices, for the contraventions of Designated By-laws.
- 2.2 The Provincial Offences Act, R.S.O. 1990, c.P.33, as amended, does not apply to a contravention of a Designated By-law.

3. *Penalty notice*

- 3.1 Every Person who contravenes a provision of a Designated By-law shall, upon issuance of a Penalty Notice, be liable to pay the City an Administrative Penalty in the amount specified in the attached schedule. Where the contravention is in relation to property that is jointly owned, all registered property owners shall be jointly liable for the Penalty.

- 3.2 An Officer who has reason to believe that a Person has contravened any Designated By-law may issue a Penalty Notice as soon as reasonably practicable.
- 3.3 A Penalty Notice shall include the following information, as applicable:
- a) The Penalty Notice Date;
 - b) A Penalty Notice Number;
 - c) The date on which the Administrative Penalty is due and payable, fifteen (15) days from service of the Penalty Notice;
 - d) The identification number and signature of the Officer;
 - e) The contravention wording as listed in the attached Schedules, or other particulars reasonably sufficient to indicate the contravention;
 - f) The amount of the Administrative Penalty;
 - g) Such additional information as the Director of Construction and Protective Services determines is appropriate, respecting the process by which a Person may exercise the right to request a Screening Review of the Administrative Penalty; and
 - h) A statement advising that an unpaid Administrative Penalty, including any applicable Administrative Fee(s), will constitute a debt of the Person to the City unless cancelled pursuant to Screening Review or Hearing process.
- 3.4 In addition to the service methods provided in section 7 "Service of Documents" of this By-law, an Officer may serve the Penalty Notice on a Person by:
- a) affixing it to the vehicle in a conspicuous place at the time of a parking or traffic-related contravention; or
 - b) delivering it personally to the Person,
 - i) when relating to a parking or traffic-related contravention, the Person having care and control of the vehicle at the time of the contravention, within seven (7) days of the contravention; or
 - ii) for all other contraventions, within thirty (30) days of the contravention.

- 3.5 No Officer may accept payment of an Administrative Penalty or Administrative Fee.
- 3.6 A Person who is served with a Penalty Notice and who does not pay the amount of the Administrative Penalty on or before the date on which the Administrative Notice is due and payable, shall also pay the City any applicable Administrative Fee(s).

4. Voluntary payment of penalty notice

- 4.1 Where a Penalty Notice has been paid, the Penalty Notice shall not be subject to any further review.
- 4.2 A Penalty Notice shall be deemed to have been paid when the amount and all fees prescribed in the attached schedule have been paid.

5. Review by screening officer

- 5.1 A Person who is served with a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer and shall do so on or before the date on which the Administrative Penalty is due and payable, and in accordance with the process set out in Section 5.4.
- 5.2 If a Person has not requested a Screening Review on or before the date on which the Administrative Penalty is due and payable, the Person may request that the Manager of Municipal Law Enforcement Services extend the time to request a Screening Review to a date that is no later than forty-five (45) days after the Penalty Notice Date, in accordance with the process set out in Section 5.4.
- 5.3 A Person's right to request an extension of time for a Screening Review expires, if it has not been exercised, on or before forty-five (45) days after the Penalty Notice Date, at which time:
 - a) The Person shall be deemed to have waived the right to request a Screening Review or request an extension of time for a Screening Review;
 - b) The Administrative Penalty shall be deemed to be confirmed; and
 - c) The Administrative Penalty shall not be subject to any further review, including a review by any Court.
- 5.4 A Person's Request for Review by Screening Officer or request for an extension of time to request a Screening Review are

exercised by a submission in writing, in the prescribed form and in accordance with the directions on the prescribed form.

- 5.5 A Request for Review by Screening Officer or request for an extension of time to request a Screening Review shall be served in accordance with the provisions of Section 7 of this By-law.
- 5.6 A Request for Review by Screening Officer or a request for an extension of time to request a Screening Review shall only be scheduled by the Manager of Municipal Law Enforcement if the Person makes the request on or before the dates established by Sections 5.1 or 5.2 of this By-law.
- 5.7 The Director, Construction and Protective Services may grant a request to extend the time to request a Screening Review where the person demonstrates, that the existence of extenuating circumstances prevented the filing of the request within the prescribed timeline.
- 5.8 Where an extension of time to request a Screening Review is not granted by the Director, Construction and Protective Services, the Administrative Penalty and any applicable Administrative Fee(s) are deemed to be confirmed. Notice of this decision will be provided by the Manager, Municipal Law Enforcement Services Officer to the Person in accordance with Section 7.
- 5.9 Where an extension of time to request a Screening Review is granted by the Director of Construction and Protective Services, or when a Screening Review has been requested in accordance with this Section, Notice of an Appointment for Screening Review will be provided in accordance with Section 7.
- 5.10 On a Screening Review of an Administrative Penalty, the City will direct that the Screening Review proceed by way of written screening unless, at the discretion of the Director Construction and Protective Services, an in-person or telephone appointment is required.
- 5.11 Where a Person fails to attend at the time and place scheduled for a Screening Review of an Administrative Penalty, or fails to provide requested documentation in accordance with a request by a Screening Officer:
 - a) The Person shall be deemed to have abandoned the request for a Screening Review of the Administrative Penalty;

- b) The Administrative Penalty as set out in the Penalty Notice shall be deemed to be confirmed;
- c) The Administrative Penalty shall not be subject to any further review, including a review by any Court; and
- d) The Person shall pay to the City a Screening Non-appearance Fee, MTO fee, if applicable, and any other applicable Administrative Fee(s).

5.12 On a review of an Administrative Penalty, the Screening Officer may:

- a) affirm the Administrative Penalty if the Person has not established on a balance of probabilities that Designated By-law(s) was not contravened as described in the Penalty Notice; or
- b) cancel, reduce the penalty and/or extend the time for payment of the Administrative Penalty, including any Administrative Fee(s), where, in the sole discretion of the Screening Officer that doing so would maintain the general intent and purpose of the Designated By-law, and/or any of the following circumstances exist:
 - i. defective form or substance on the Penalty Notice;
 - ii. service of the Penalty Notice did not occur in accordance with Section 7;
 - iii. undue financial hardship;

5.13 After a Review by Screening Officer, the Screening Officer shall issue a Screening Decision to the Person, delivered in accordance with Section 7 of this By-law.

5.14 A Screening Officer has no authority 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. Review by a hearing officer

- 6.1 A Person may Request a Review by a Hearing Officer within thirty (30) days of issuance of a Screening Decision in accordance with the Hearings Officer By-law, as amended from time to time.
- 6.2 If a Person has not requested a Review by a Hearing Officer on or before the date on which the Administrative Penalty is due and payable, the Person may request that the Director of

Construction and Protective Services extend the time to request a Review by a Hearing Officer to a date that is no later than forty-five (45) days after the Screening Decision date, in accordance with the process set out in Section 6.4.

- 6.3 A Person's right to request an extension of time for a Hearing Review expires, if it has not been exercised, on or before forty-five (45) days after the Screening Decision date, at which time:
 - a) the Person shall be deemed to have waived the right to request a Review by a Hearing Officer or request an extension of time for a Review by a Hearing Officer;
 - b) the Screening Decision is confirmed; and
 - c) the Administrative Penalty shall not be subject to any further review, including a review by any Court.
- 6.4 A Person's Request for Review by a Hearing Officer or request for an extension of time to request a Review by a Hearing Officer are exercised by a submission in writing, in the prescribed form and in accordance with the directions on the prescribed form.
- 6.5 A Request for Review by Screening Officer or request for an extension of time to request a Screening Review shall be served in accordance with the provisions of Section 7 of this By-law.
- 6.6 A Request for Review by a Hearing Officer or a request for an extension of time to request a Review by a Hearing Officer shall only be scheduled by the Manager of Municipal Law Enforcement Services if the Person makes the request on or before the dates established by Sections 6.1 or 6.2 of this By-law.
- 6.7 The Director, Construction and Protective Services may grant a request to extend the time to request a Review by a Hearing Officer only where the Person demonstrates, to the satisfaction of the Director, Construction and Protective Services in his/her sole discretion that they were not served in accordance with Section 7.
- 6.8 Where an extension of time to request a Review by a Hearing Officer is granted by the Director, Construction and Protective Services, or when a Review by a Hearing Officer has been requested in accordance with this Section, Notice of a Hearing will be provided in accordance with Section 7.
- 6.9 Where a Person fails to appear at the time and place scheduled for a Hearing:

- a) the Person shall be deemed to have abandoned the Request for review of a Hearing;
- b) the Screening Decision and the Administrative Penalty and any Administrative Fee(s) shall be deemed to be confirmed;
- c) the Screening Decision and the Administrative Penalty and any Administrative Fee(s) shall not be subject to any further review, including a review by any Court; and
- d) the Person shall pay to the City a Hearing Non-appearance Fee, Late Payment Fee, MTO Fee if applicable and any other applicable Administrative Fee(s).

6.10 A Hearing Officer shall conduct a *de novo* Hearing in accordance with the Statutory Powers and Procedures Act, R.S.O. 1990, c. S.22, as amended and the Hearings Officer By-law, as amended from time to time.

6.11 The Parties to a Hearing shall be the Person seeking review and the City, who may attend through the Director, Construction and Protective Services, a Screening Officer, an Officer, the City Solicitor, or a delegate of any of the above persons.

6.12 Any information contained in the Penalty Notice is admissible in evidence as proof of the facts certified in it, in the absence of evidence to the contrary. If a Person wishes to challenge the facts contained in the Penalty Notice, they will be required to mark the prescribed form accordingly.

6.13 Upon the conclusion of a Hearing, the Hearing Officer may:

- a) affirm the Administrative Penalty if the Person has not established on a balance of probabilities that Designated By-law(s) was not contravened as described in the Penalty Notice; or
- b) cancel, reduce the penalty and/or extend the time for payment of the Administrative Penalty, including any Administrative Fee(s), on the following grounds:
 - i. where the Person establishes on a balance of probabilities that the Designated By-law(s) as described in the Penalty Notice was not contravened; or
 - ii. where the Person establishes on a balance of probabilities that the cancellation, reduction or

extension of time for payment of the Administrative Penalty, including any Administrative Fee(s), is necessary to relieve any undue financial hardship.

- 6.14 A Hearing Officer has no authority 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.
- 6.15 After a Hearing is complete, the Hearing Officer shall issue a Hearing Decision to the Person and deliver in accordance with the Hearings Officer By-law.
- 6.16 The decision of a Hearing Officer is final.

7. Service of documents

- 7.1 The service of any document, notice or decision, including a Penalty Notice, pursuant to this By-law, when served in any of the following ways, is deemed effective:
 - a) immediately, when a copy is delivered by personal service to the Person to whom it is addressed or, in the case of a Penalty Notice relating to a parking or traffic-related contravention, by affixing it to the vehicle in a conspicuous place at the time of the contravention;
 - b) on the seventh (7th) Day following the date a copy is sent by registered mail or by regular mail to the Person's last known address;
 - c) immediately upon the conclusion of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
 - d) immediately upon sending a copy by electronic mail (i.e. email) to the Person's last known electronic mail address.
- 7.2 For the purposes of subsections 7.1. b), c) and d) of this By-law, a Person's last known address, facsimile number, and electronic mail address includes an address, facsimile number and electronic mail address provided by the Person to the City as may be required by a form, practice or policy under this By-law.
- 7.3 If a notice document that is to be given or delivered to a Person under this By-law is mailed to the Person at the Person's last known address appearing on the records of the City as part of

a proceeding under this By-law, or sent electronically to an email address that was provided by the Person, there is a rebuttable presumption that the notice or document is given or delivered to the person.

- 7.4 A Person shall keep their contact information for service current by providing any change in address, facsimile, or electronic mail address to the Director of Construction and Protective Services, immediately. Failure to comply with this section will negate consideration for an extension of time to Request a Review by a Hearing Officer pursuant to Section 6.4.
- 7.5 Where this By-law requires service by a Person on the City, service shall be addressed to the Director of Construction and Protective Services, and shall be deemed effective:
 - a) immediately, when a copy is delivered by personal service to the Director of Construction and Protective Services at the location prescribed on the applicable form or notice;
 - b) on the seventh (7th) Day following the date a copy is sent by registered mail or by regular mail to the location prescribed on the applicable form or notice;
 - c) immediately with respect to electronic mail or upon the conclusion of a copy by facsimile transmission to the facsimile number listed on the applicable form or notice.

8. Administration

- 8.1 The Director of Construction and Protective Services administers this By-law and establishes any additional practices, policies and procedures necessary to implement this By-law and may amend such practices, policies and procedures from time to time as the Director, Construction and Protective Services deems necessary, without amendment to this By-law.
- 8.2 The Director of Construction and Protective Services shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this By-law and may amend such forms and notices from time to time as the Director, Construction and Protective Services deems necessary, without amendment to this By-law.
- 8.3 Any Administrative Fee(s) prescribed in the attached schedule shall be added to and be deemed part of the penalty amount unless otherwise rescinded by the Hearings Officer.

- 8.4 Where an Administrative Penalty is not paid by the date on which the Administrative Penalty is due and payable, the Person shall pay to the City a Late Payment Fee, in addition to the Administrative Penalty and any applicable Administrative Fee(s).
- 8.5 Where a Person makes payments to the City of any Administrative Penalty, Administrative Fee(s) or Late Payment Fee(s), by negotiable instrument or credit card, for which there are insufficient funds available in the account on which the instrument was drawn, the Person shall pay to the City the NSF Fee set out in the City's Fees and Charges By-law.
- 8.6 An Administrative Penalty, including any Administrative Fee(s), that is confirmed or reduced, or in respect of which the time for payment has been extended, remaining unpaid after the date when it is due and payable, constitutes a debt to the City owed by the Person.
- 8.7 Where an Administrative Penalty, and any applicable Administrative Fee(s) or Late Payment Fee(s), are not paid by the date on which they are due and payable, the City shall enforce the payment of such fees in accordance with the applicable legislation and regulations, including but not limited to the ability to notify the Registrar of Motor Vehicles, resulting in plate denial. At the time that plate denial is requested a plate denial fee will be added in accordance with the attached schedule and shall be added to the total debt owed to the City.
- 8.8 Where an Administrative Penalty is cancelled by a Screening Officer or a Hearing Officer, any Administrative Fee(s) shall also be cancelled.
- 8.9 An Authorized Representative is permitted to appear on behalf of a Person at a Screening Review or Review by a Hearing Officer, or to communicate with the City on behalf of a Person in accordance with a written authorization satisfactory to the Director of Construction and Protective Services.
- 8.10 Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.
- 8.11 A Person claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the Manager of Municipal Law Enforcement Services, the Screening Officer or the Hearing Officer, as applicable.
- 8.12 Any schedule attached to this By-law forms part of this By-law.

9. Severability

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

10. Interpretation

- 10.1 Where words and phrases used in this By-law are defined in the Highway Traffic Act, but not defined in this By-law, the definitions in the Highway Traffic Act shall apply to such words and phrases.

11. Short title

- 11.1 This By-law may be referred to as the Administrative Penalties System or AMPS By-law.

12. Repeal

- 12.1 By-law no. 2020-19 is hereby repealed on the date this By-law comes in force and effect.

13. Effective date

- 13.1 This By-law shall come into force and effect on May 24, 2022.

Read, passed, and adopted in open council this 16th day of May 2022.

Mario Zanth

Signé avec ConsignO Cloud (19/05/2022)
Vérifiez avec verifio.com ou Adobe Reader.



Mario Zanth, Mayor

Monique Ouellet

Signé avec ConsignO Cloud (18/05/2022)
Vérifiez avec verifio.com ou Adobe Reader.



Monique Ouellet, Clerk

