

Corporation of the City of Clarence-Rockland

By-law 2025-04

Being a By-Law of the City of Clarence-Rockland to implement an Administrative Penalty System for Highway Traffic Act Offences in the City of Clarence-Rockland.

Whereas Section 21.1 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, (the “HTA”) and Ontario Regulation 355/22 (“Regulation 355/22”), made pursuant to the HTA, authorizes the imposition of Administrative Penalties and fees for the contravention of Subsection 128(1) where the evidence in respect of the contravention is obtained through the use of an automated speed enforcement system under Part XIV.1 of the HTA;

And Whereas Sections 23.2, 23.3 and 23.5 of the *Municipal Act 2001*, S.O. 2001, c. 25 as amended (*Municipal Act 2001*) authorizes the City to delegate its administrative and hearing powers;

And Whereas Section 391 of the *Municipal Act 2001* authorizes the City to pass By-laws imposing fees or charges for services or activities provided or done by or on behalf of it;

And Whereas the Council for the City considers it desirable and necessary to provide for a system of Administrative Penalties for contraventions of those Sections of the HTA as authorized by Section 21.1 of the HTA and Regulation 355/22;

Therefore the Council of the City of Clarence-Rockland enacts as follows:

1. Title

This By-law may be known and cited for all purposes as the Administrative Penalty By-law for HTA Offences”.

2. Definitions

In this By-law:

“Administrative Penalty” means the Penalty Amount set out in Schedule “A” of this By-law for a contravention of those sections of the HTA as authorized by Section 21.1 of the HTA and Sections 2 and 3 of Regulation 355/22;

“Appellant” means a person who appeals a Penalty Order to a Screening Officer and appeals a decision of a Screening Officer to a Hearing Officer.

“Authorized Representative” means a Person who is authorized in writing to sign

any documents and/or appear on behalf of a Person in accordance with a written authorization or Power of Attorney, and which is provided to the City, a Screening Officer or a Hearing Officer. An Authorized Representative is not required to be licensed by any professional body;

“City” means the Corporation of the City of Clarence-Rockland.

“Clerk” means the City Clerk for the City or such Person as may be designated by the Clerk;

“Council” means the Council of the City;

“Court” means any court of law of the Province of Ontario, including but not limited to the Court of Ontario consisting of the Ontario Court of Justice and the Superior Court of Justice, and the Court of Appeal for Ontario;

“Director” means the Director of Construction and Protective Services;

“Electronically” “Electronic” and “Electronic Method” means a video conference, audio conference, telephone conference or exchange of written communication by e-mail transmission;

“Extenuating circumstances” means a special or specified circumstance, including such types of extenuating circumstances set out in a policy established by the Director that partially or fully exempts a Person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle.

“Financial hardship” means a significant difficulty or expense and focuses on the resources and circumstances of the Person owing an Administrative Penalty in relationship to the cost or difficulty of paying the Administrative Penalty;

“Hearing Decision” means a written notice that contains the decision made by a Hearing Officer;

“Hearing Officer” means a Person appointed by Council under the City’s Hearings Officer By-law 2023-38 to review Administrative Penalties and Penalty Orders involving appeals of decisions of a Screening Officer in accordance with the hearing Sections of this By-law;

“Hearing Officer Appeal Form” means the form requesting an appeal of a Screening Decision required to be delivered by a Person under this By-law;

“Hearing Review” means an appeal of a Screening Decision hearing before a Hearing Officer;

“Holiday” - The following days are holidays:

1. Saturday and Sunday.
2. New Year’s Day.
3. Family Day.

4. Good Friday.
5. Easter Monday.
6. Victoria Day.
7. Canada Day.
8. Labour Day.
9. Thanksgiving Day.
10. Remembrance Day.
11. Christmas Day.
12. Boxing Day.
13. Any day fixed as a holiday by proclamation of the Governor General or Lieutenant Governor.
14. Any day that the offices of the City are officially closed for business.

“MTO” means the Ontario Ministry of Transportation

“Notice of Hearing” means a written notice setting out the method of a Hearing Review with a Hearing Officer, including the date, time, and place if applicable;

“Notice of Screening Review” means a written notice setting out the method of a Screening Review with a Screening Officer, including the date, time, and place if applicable;

“Oral” and “Orally” means a review or hearing conducted in person or Electronically;

“Owner”, in relation to a motor vehicle, means,

(a) the holder of the permit for the motor vehicle, or

(b) if the motor vehicle permit consists of a vehicle portion and plate portion and different Persons are named on each portion, the Person whose name appears on the plate portion;

“Penalty Amount” means the amount that the Person served with a Penalty Order is liable to pay in respect of a contravention of a section of the *HTA* as authorized by Section 21.1 of the *HTA* and Regulation 355/22;

“Penalty Order Number” means the number specified on the Penalty Order that is unique to that Penalty Order;

“Penalty Order” means an order issued pursuant to s. 21.1 of the *HTA* and Regulation 355/22 (the relevant provisions are set out in Section 5 of this By-law);

“Person” includes an individual, a business name, sole proprietorship, corporation, partnership, or limited liability partnership;

“Person of a prescribed class” for the purposes of Subsection 21.1(3) of the *HTA* means a Person who is the Owner of a motor vehicle;

“Prescribed Authorized Person” means a Person who meets the following criteria:

1. The Person is employed by a municipality.
2. The Person has been designated as a provincial offences officer by the Minister of Transportation under Subsection 1 (3) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, (the “*Provincial Offences Act*”) for the purposes of all or any class of offences set out in one or more of the following Parts of the *HTA*:
 - i. Part XIV.1.
 - ii. Part XIV.2.
 - iii. Part XIV.3.
 - iv. Part XIV.4.
3. The designation mentioned in paragraph 2 authorizes the Person to issue a certificate of offence under Subsection 3 (2) of the *Provincial Offences Act* for a contravention of a provision prescribed under Section 2 of Regulation 355/22.

“Screening Decision” means a written notice that contains the decision made by a Screening Officer;

“Screening Officer” means a Person employed by the City to review Administrative Penalties and appeals by way of review of Penalty Orders, who is appointed by the Director and who performs the functions of a Screening Officer in accordance with the screening Sections of this By-law;

“Screening Officer Review Form” means the form requesting a review or appeal of a Penalty Order required to be delivered by a Person under this By-law;

“Screening Review” means a review of a Penalty Order by a Screening Officer.

“Signature” includes any electronic mark or signature;

“Undue Hardship” means circumstances in which payment of Administrative Penalties would cause undue hardship for the purposes of Clauses 9(3)(b) and 13(3)(b) and contains the following two classes of circumstances:

1. Extenuating circumstances; and
2. Financial hardship.

3. Application

- (1) This By-law applies to those contraventions of those sections of the *HTA* as authorized by Section 21.1 of the *HTA* and Regulation 355/22

PART I - ADMINISTRATIVE PENALTY SYSTEM FOR CONTRAVENTION OF THOSE SECTIONS OF THE *HTA* AS AUTHORIZED BY SECTION 21.1 OF THE *HTA* AND REGULATION 355/22

4. Administrative Penalties

- (1) The Penalty Amounts designated in Schedule "A" as attached and forming part of this By-law, may be dealt with by Penalty Order and the Administrative Penalty System set out herein.
- (2) In sections 4 to 17 and sections 20 to 21 of this By-law, a "Person of a prescribed class" shall be referred to as a "Person" and a "Prescribed Authorized Person" shall be described as an "Authorized Person" for simplicity's sake and to be consistent with the wording used in s. 21.1 of the *HTA* and Regulation 355/22.
- (3) An Administrative Penalty may be collected by the City from the Person to whom the Penalty Order is issued and served.
- (4) The Person who is subject to a Penalty Order shall pay the Administrative Penalty within 30 days after the date on which service of the order is deemed to have been effected under Section 9(4) of Regulation 355/22 (which is also set out under Section 14 of this By-law) herein unless an appeal has been commenced.

5. Penalty Order

- (1) Any Person who contravenes any Section of the *HTA* as authorized by Section 21.1 of the *HTA* and Regulation 355/22 when served with a Penalty Order shall be liable to pay to the City an Administrative Penalty in the Penalty Amount set out in Section 6 of Regulation 355/22 (which amounts are also set out in Schedule "A").
- (2) An Authorized Person who has reason to believe that a Person has contravened any Section of the *HTA* as authorized by Section 21.1 of the *HTA* and Regulation 355/22 may issue and serve a Penalty Order. (Subsection 21.1 (3) *HTA* and Section 5 of Regulation 355/22)
- (3) The time period in which to issue a Penalty Order is the period that ends 23 days after the day on which a contravention occurred. (Section 8 of Regulation 355/22)
- (4) The Penalty Order shall be served on the Person in accordance with the provisions of Section 9 of Regulation 355/22 (which are also set out in Subsections 14(1) to (4) of this By-law) and shall include the following information as required by Subsection 7(1) of Regulation 355/22:

1. A unique file number.

2. The provision contravened.
 3. The date and location of the contravention.
 4. An identification of the motor vehicle that is involved in the contravention.
 5. The amount of the Administrative Penalty set out in Section 6 of Regulation 355/22 (which is also set out in Schedule "A" of this By-law).
 6. A statement that the owner of the motor vehicle must, no later than 30 days after the day the order is served on them, pay the Administrative Penalty unless they commence an appeal in accordance with Regulation 355/22.
 7. A statement that the owner of the motor vehicle may, no later than 30 days after the day the order is served on them, commence an appeal in accordance with Regulation 355/22.
 8. Information regarding the appeal process including the manner in which to commence an appeal.
- (5) For the purposes of paragraph 4 of Subsection (4), a copy of a photograph or image of the motor vehicle involved in the contravention may be included in the Penalty Order. (Subsection 7(3) of Regulation 355/22).
 - (6) The Penalty Order may include statements by the Authorized Person that are certified to be true in respect of the contravention or in respect of the service of the Penalty Order. (Subsection 7(4) of Regulation 355/22).
 - (7) The Penalty Order shall be in the form specified by the municipality that employs the Authorized Person. (Subsection 7(2) of Regulation 355/22).
 - (8) If an Authorized Person commenced a proceeding under the *Provincial Offences Act* for the contravention of any Section of the *HTA* as authorized by Section 21.1 of the *HTA* and Regulation 355/22, no Penalty Order shall be issued for the same contravention. (Subsection 21.1(4) *HTA*).

6. Review by Screening Officer

The following applies to the appeal of an Administrative Penalty to a Screening Officer:

- (1) A Person who is subject to a Penalty Order may commence the appeal by requesting, in the manner set out in the Penalty Order, a review of the Penalty Order by a Screening Officer. (Clause 11(1) 1 of Regulation 355/22).
- (2) An appeal operates as a stay of the Penalty Order until the matter is finally

disposed of. (Subsection 21.1 (8) *HTA*).

- (3) An appeal of a Penalty Order shall be commenced within 30 days after the date on which service of the Penalty Order is deemed to have been effected under Subsection 9(4) of Regulation 355/22. (Subsection 11(1) of Regulation 355/22).
- (4) If a Screening Officer considers it fair and appropriate in the circumstances, the officer may extend the 30-day period to commence an appeal and the extension may be made even after the 30-day period has expired. (Subsection 11(2) of Regulation 355/22). The Screening Officer shall take into account any direction and limits as set out in any policy as the Director may create.
- (5) A Screening Review may be held Orally, by Electronic Method or in writing. The Screening Officer shall determine the method of Screening Review. (Subsection 12(1) of Regulation 355/22).
- (6) A Person's right to request a Screening Review with a Screening Officer, or to request an extension of time to appeal, are set out in the Penalty Order (Clause 11(1)1 of Regulation 355/22) and for greater certainty shall be exercised by delivering to the City written notice in a Screening Officer Review Form that includes:
 - a. the Penalty Order Number;
 - b. the Person's mailing address, telephone number, and their e-mail address;
 - c. in the case of a request to extend time to request a Screening Review, the reasons, if any, for having failed to exercise the right to request a review within thirty (30) days from the date the Penalty Order was deemed served;
 - d. the reasons for which the Screening Review has been requested; and
 - e. the method of hearing the Person wishes to have (i.e. Orally (in person), Electronically or in writing)

A Person who has completed a Screening Officer Review Form may attach or submit with the form any documents, evidence, submissions and any other information that the Person believes should be considered by the Screening Officer.
- (7) Written notice to request a Screening Review shall be provided by completing the Screening Officer Review Form and delivering it to the City in accordance with Subsection 14 (7).

- (8) Where a Screening Review is to be held Orally or Electronically, the Person shall be served with a Notice of Screening Review with a hearing date, which date shall be at least seven (7) calendar days from the date of deemed service of the Notice of Screening Review as provided by Section 14. The Notice of Screening Review shall set out the method of hearing.
- (9) Where the Screening Officer determines that the Screening Review is to be conducted Orally or by Electronic Method with the Screening Officer, the Notice of Screening Review shall provide details of the date, time, and place (if applicable), phone number or video conference link, and Oral or Electronic Method of the meeting with the Screening Officer.
- (10) Where the Screening Officer determines that the Screening Review is to be conducted in writing, the Person shall be served with a Notice of Screening Review indicating that the review will be conducted in writing. The notice to the Person shall include the methods of delivering all documents, evidence, submissions and any other information that the Person believes should be considered by the Screening Officer to the City (methods of delivery as set out in Subsection 14 (7)) and the date by which all documents, evidence, submissions and any other information are to be delivered to the City.

7. Conduct of an appeal to a Screening Officer

- (1) Unless there is a conflict of interest as set out in Section 21 of this By-law (in which case the procedure set out under Section 21 shall apply), a Screening Officer shall determine whether the appeal is to be conducted Orally, Electronically or in writing, based on the method requested by the Person, and shall ensure that the Appellant is informed of the determination. (Subsection 12(1) of Regulation 355/22).
- (2) If a date and time is set for an Appellant to make submissions in respect of any stage of an appeal, the Appellant shall attend at the set date and time. (Subsection 12(2) of Regulation 355/22).
- (3) A Screening Officer shall not decide whether to confirm, vary or set aside a Penalty Order unless the Appellant has been given an opportunity to make submissions in the same manner in which the appeal is to be conducted. (Subsection 12(3) of Regulation 355/22).
- (4) Where an Appellant was sent a Notice of Screening Hearing by Oral or Electronic Method and fails to attend at the set date and time, they are deemed to have been given an opportunity to make submissions.
- (5) No witnesses shall be called in an appeal. (Subsection 12(5) of Regulation 355/22).

8. Determination of an appeal

(The provisions in Section 8 in this By-law are the provisions set out under Subsections 13(1) and (3) of Regulation 355/22)

- (1) In deciding whether to confirm, vary or set aside a Penalty Order, a Screening Officer shall determine whether it was reasonable for the Authorized Person to impose the Penalty Order.
- (2) In making a determination mentioned in Subsection (1), the Screening Officer may consider the following information, if available:
 1. Photographs or images taken by the camera system or enforcement system, as applicable.
 2. Statements, including certified statements, made by the Authorized Person who imposed the Penalty Order.
 3. Documents, including certified documents, setting out the name and address of the Person who is subject to the order, a description of the permit and the number plate of the motor vehicle.
 4. Statements by the Appellant made either in writing or in the manner in which the appeal is conducted.
 5. Statements by or on behalf of the municipality in which the contravention that is the subject of the Penalty Order occurred, made either in writing or in the manner in which the appeal is conducted.
 6. Any other information, materials or submissions that the Screening Officer considers to be credible or trustworthy in the circumstances.

9. Decisions

(Subsections 9(1) and (2) of this By-law are the provisions set out under Subsections 14(1) and (2) of Regulation 355/22)

- (1) A Screening Officer does not have 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.
- (2) If a Screening Officer decides to vary the amount of an Administrative Penalty determined under Section 6 of Regulation 355/22 (which is also set out in Schedule "A" to this By-law), they shall vary the amount in accordance with the following rules (Note- the reference to Sections are those Sections in Regulation 355/22):
 1. If the total amount of a penalty is decreased, the amount to be credited to the victims' justice fund account under Section 19 is the amount

- mentioned in paragraph 6 of Subsection 6 (1) that has been reduced proportionally to the decrease in the total penalty amount.
2. For greater certainty, if the total amount of a penalty is decreased to zero, the amount mentioned in paragraph 6 of Subsection 6 (1) is zero.
 3. If the Appellant failed to attend any stage of an appeal in accordance with Subsection 12 (2), the amount of the penalty shall be increased by \$60.
 4. For greater certainty, an increase made under paragraph 3 does not affect the amount mentioned in paragraph 6 of Subsection 6 (1).
 5. The amount of the penalty shall not be increased other than in accordance with paragraph 3.
- (3) A Screening Officer shall only vary or set aside payment of an Administrative Penalty in a Screening Decision (as authorized under Clause 11(1) 2 of Regulation 355/22) under the following circumstances:
- a) set aside if the Person establishes, on a balance of probabilities, that they did not commit the contravention or that the contravention did not occur as alleged on the Penalty Notice;
 - b) varying an Administrative Penalty is necessary to reduce Undue Hardship;
 - c) set aside where there is a defective form or error on the Penalty Order or it was not properly served; or
 - d) if, before a final decision is made in respect of an appeal, a Screening Officer becomes aware that, contrary to Subsection 21.1 (4) of the *HTA*, the Person who is subject to the Penalty Order is charged with an offence under the *HTA* in respect of the same contravention, the officer shall set aside the Penalty Order (Section 20 of Regulation 355/22).
- (4) A Screening Officer shall send out to the Person a Screening Decision within 7 days of the Screening Hearing in accordance with the service provisions of Section 14. The Screening Decision shall include instructions for requesting an appeal by way of a Hearing Review. (Clause 11(1) 3 of Regulation 355/22 requires a copy of the decision to be sent as soon as practical after the decision is made).
- (5) A Person who has been served with a Screening Decision pursuant to this By-law may appeal the Screening Decision to a Hearing Officer, and shall do so within thirty (30) calendar days after the date of the Screening Decision. (Clauses 11(1) 4 and 5 of Regulation 355/22).

10. Review by Hearing Officer

The following applies to an appeal involving a review of a Screening Decision by a Hearing Officer:

- (1) A Person who is served with a Screening Decision may appeal the decision by requesting a review of the Screening Officer's decision. (Clause 11(1) 4 of Regulation 355/22).
- (2) An appeal operates as a stay of the Penalty Order until the matter is finally disposed of. (Subsection 21.1 (8) *HTA*).
- (3) An appeal of a Screening Decision shall be made within 30 days after the date of the Screening Decision. (Clause 11(1) 5 of Regulation 355/22).
- (4) If a Hearing Officer considers it fair and appropriate in the circumstances, the Hearing Officer may extend the 30-day period to commence an appeal and the extension may be made even after the 30-day period has expired. (Subsection 11(3) of Regulation 355/22). The Hearing Officer shall take into account any direction and limits as set out in any policy as the Director may create.
- (5) A Hearing Review may be held Orally, by Electronic Method or in writing. The Hearing Officer shall determine the method of Hearing Review taking into account the method requested by the Person. (Subsection 12 (1) of Regulation 355/22).
- (6) A Person's right to request a Hearing Review with a Hearing Officer, or to request an extension of time to appeal, are exercised by delivering to the City written notice in a Hearing Officer Review Form that includes:
 - a. the Penalty Notice Number;
 - b. the Person's mailing address, telephone number, and their e-mail address;
 - c. in the case of a request to extend time to request a Hearing Review, the reasons, if any, for having failed to exercise the right to request review within thirty (30) days from the date of the Screening Decision;
 - d. the reasons for which the Hearing Review has been requested; and
 - e. the method of hearing the Person wishes to have (i.e. Orally (in person), Electronically or in writing).

A Person who has completed a Hearing Officer Review Form may attach or submit with the form any documents, evidence, submissions and any other information that the Person believes should be considered by the Hearing

Officer.

- (7) Written notice to request a Hearing Review shall be provided by completing the Hearing Officer Review Form and delivering it to the City in accordance with Subsection 14 (7).
- (8) Where a Hearing Review is to be held Orally or by Electronic Method, the Person shall be served with a Notice of Hearing with a hearing date, which date shall be at least seven (7) calendar days from the date of deemed service of the Notice of Hearing as provided by Section 14. The Notice of Hearing shall set out the method of hearing.
- (9) Where the Hearing Officer determines that the Hearing Review is to be conducted Orally or by Electronic Method with the Hearing Officer, the Notice of Hearing Review shall provide details of the date, time, place (if applicable), phone number or video conference link, and Oral or Electronic Method of the meeting with the Hearing Officer.
- (10) Where the Hearing Officer determines that the Hearing Review is to be conducted in writing, the Person shall be served with a Notice of Hearing Review indicating that the review will be conducted in writing. The notice to the Person shall include the methods of delivering all documents, evidence, submissions and any other information that the Person believes should be considered by the Hearing Officer to the City (methods of delivery as set out in Subsection 14(7)) and the date by which all documents, evidence, submissions and any other information are to be delivered to the City.

11. Conduct of an appeal

- (1) A Hearing Officer shall determine whether the appeal is to be conducted Orally, Electronically or in writing and shall ensure that the Appellant is informed of the determination.
- (2) If a date and time is set for an Appellant to make submissions in respect of any stage of an appeal, the Appellant shall attend at the set date and time.
- (3) A Hearing Officer shall not decide whether to confirm, vary or set aside a Penalty Order unless the Appellant has been given an opportunity to make submissions in the same manner in which the appeal is to be conducted.
- (4) Where an Appellant was sent a Notice of Hearing by Oral or Electronic Method and fails to attend at the set date and time, they are deemed to have been given an opportunity to make submissions
- (5) No witnesses shall be called in an appeal.

12. Determination of an appeal

(The provisions in Section 12 in this By-law are the provisions set out under Subsections 13(2) and (3) of Regulation 355/22)

- (1) In deciding whether to confirm, vary or set aside a Penalty Order, a Hearing Officer shall determine whether the decision of the Screening Officer was reasonable.
- (2) In making a determination mentioned in Subsection (1), the Hearing Officer may consider the following information, if available:
 1. Photographs or images taken by the camera system or enforcement system, as applicable.
 2. Statements, including certified statements, made by the Authorized Person who imposed the Penalty Order.
 3. Documents, including certified documents, setting out the name and address of the Person who is subject to the order, a description of the permit and the number plate of the motor vehicle.
 4. Statements by the Appellant made either in writing or in the manner in which the appeal is conducted.
 5. Statements by or on behalf of the municipality in which the contravention that is the subject of the Penalty Order occurred, made either in writing or in the manner in which the appeal is conducted.
 6. Any other information, materials or submissions that the Hearing Officer considers to be credible or trustworthy in the circumstances.

13. Decisions

(Subsections 13(1) (2) and (5) of this By-law are the provisions set out under Subsections 14(1) (2) and (3) of Regulation 355/22)

- (1) A Hearing Officer does not have 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.
- (2) If a Hearing Officer decides to vary the amount of an Administrative Penalty determined under Section 6 of Regulation 355/22 (which is also set out in Schedule "A" to this By-law), they shall vary the amount in accordance with the following rules (Note- the reference to Sections are those Sections in Regulation 355/22):
 1. If the total amount of a penalty is decreased, the amount to be credited to the victims' justice fund account under Section 19 is the amount

mentioned in paragraph 6 of Subsection 6 (1) that has been reduced proportionally to the decrease in the total penalty amount.

2. For greater certainty, if the total amount of a penalty is decreased to zero, the amount mentioned in paragraph 6 of Subsection 6 (1) is zero.
 3. If the Appellant failed to attend any stage of an appeal in accordance with Subsection 12 (2), the amount of the penalty shall be increased by \$60.
 4. For greater certainty, an increase made under paragraph 3 does not affect the amount mentioned in paragraph 6 of Subsection 6 (1).
 5. The amount of the penalty shall not be increased other than in accordance with paragraph 3.
- (3) A Hearing Officer shall only vary or set aside the decision of the Screening Officer in a Hearing Decision (as authorized under Clause 11(1) 2 of Regulation 355/22) under the following circumstances:
- a. set aside if the Person establishes, on a balance of probabilities, that they did not commit the contravention or that the contravention did not occur as alleged on the Penalty Order;
 - b. varying an Administrative Penalty is necessary to reduce Undue Hardship,
 - c. set aside where there is a defective form or error on the Penalty Order or it was not properly served; or
 - d. if, before a final decision is made in respect of an appeal, a Hearing Officer becomes aware that, contrary to Subsection 21.1 (4) of the *HTA*, the Person who is subject to the Penalty Order is charged with an offence under the *HTA* in respect of the same contravention, the Hearing Officer shall set aside the Penalty Order. (Section 20 of Regulation 355/22).
- (4) A Hearing Officer shall send out to the Person a Hearing Decision within 7 days of the Hearing Review in accordance with the service provisions of Section 14.
- (5) The decision of a Hearing Officer is final and not subject to any further appeal or review, including a review by any Court.

14. Service and Delivery of Documents

- (1) A Penalty Order may be served on the Person who is subject to the Penalty Order by sending the order by mail or by courier to the most recent address that appears on the MTO's records in respect of the holder of the plate

portion of the permit for the motor vehicle involved in the contravention. (Subsection 9(1) of Regulation 355/22).

- (2) If the Authorized Person who imposed the Penalty Order believes that the Person who is subject to the Penalty Order resides outside Ontario or, in the case of a corporation, has its principal place of business outside Ontario, the Penalty Order may be served on the Person by sending the Penalty Order by mail or by courier to the address outside Ontario at which the Authorized Person believes the Person resides or has its principal place of business. (Subsection 9(2) of Regulation 355/22).
- (3) The address mentioned in Subsection (2) may be determined from a document obtained from the government of any province or territory of Canada or from the government of a state of the United States of America, or from a Person or entity authorized by any such government to keep records of vehicle permits, number plates or other evidence of vehicle ownership in that jurisdiction. (Subsection 9(3) of Regulation 355/22).
- (4) Service of a Penalty Order mailed or couriered in accordance with this Section is deemed to be effected on the seventh day following the day on which it was mailed or couriered. (Subsection 9(4) of Regulation 355/22).
- (5) Service of any document, notice or decision (other than a Penalty Order) may be served by the City on the Person/Appellant in any of the following ways and is deemed to be effective on the following date:
 - a. the date when a copy is delivered Personally to the Person to whom it is addressed;
 - b. on the seventh (7th) day after a copy is sent by mail or by courier to the Person's last known address; or
 - c. the date when a copy is sent by e-mail transmission to the Person's last known e-mail address.
- (6) For the purposes of Clauses 14(5) (b) and (c), a Person's last known address and e-mail address may include an address and number based on the City's records, MTO records, and any address, and/or e-mail provided by the Person to the City as may be required by a form, practice or policy developed under this By-law.
- (7) Any notice or document to be delivered to the City in respect of this By-law shall be in writing and delivered in any of the following manners:
 - a. by completing and submitting an on-line form through the City's designated Administrative Penalty on-line portal;
 - b. Personally delivering a copy to the City during its regular business hours addressed to: "City of Clarence-Rockland, Attn: Administrative Penalty

Program” ;

- c. by e-mail to the attention of the Administrative Penalty Program at the e-mail address set out on the City’s website or on the Penalty Order.

PART II - PAYMENT AND FEES

15. Payment, post-appeal

Subject to Section 16, if an appeal of a Penalty Order does not result in the Penalty Order being set aside, the Person who is subject to the order shall pay the Administrative Penalty within 30 days after,

- a. the date of the Screening Decision by the Screening Officer, if no request for a review of the Screening Decision to a Hearing Officer was made within 30 days of the Screening Decision; or
- b. the date of the decision by the Hearing Officer.

16. Extension of payment deadline, plan of periodic payments

- (1) If a Screening Officer or Hearing Officer, as the case may be, considers it fair and appropriate in the circumstances, the Person may be approved for a plan of periodic payments that extends beyond the deadline set out in Section 15.
- (2) An approval mentioned in Subsection (1) may be conditional on the payment of a specified amount of the Administrative Penalty being made on or before a specified date.
- (3) A plan of periodic payments may be approved even after the 30-day period set out in Section 15 has expired.

17. MTO Plate Search, and consequences for failure to attend any stage of an appeal or to pay an Administrative Penalty

- (1) If an Administrative Penalty is not paid within the 30-day period mentioned in Section 15 or Section 16, as applicable, or in accordance with a plan of periodic payments approved under Subsection 16 (1), the City may notify the MTO.
- (2) If the City notifies the MTO under Subsection (1) in respect of a Penalty Order,
 - a. the City shall not collect payment of the Administrative Penalty and instead the MTO shall collect payment;
 - b. the Person who is subject to the Penalty Order shall pay a late payment

fee of \$20 and the amount of the late payment fee shall be included in the amount of the Administrative Penalty determined under Section 6 for enforcement purposes; and

- c. issuance and validation of a permit may be refused to the owner of a motor vehicle who is subject to the Penalty Order until the Administrative Penalty is paid.
- (3) The Administrative Penalty may include \$8.25 for an MTO plate search, \$60.00 if the Person failed to attend any stage of an appeal (Clause 14(2)3 of Regulation 355/22) and \$20.00 for any late payment (Clause 21(2)(b) of Regulation 355/22).

18. Inconsistency between this By-law and the provisions of s. 21.1 of the HTA and Regulation 355/22

- (1) In the event that any provision of this By-law is inconsistent with the provisions of Section 21.1 of the HTA and Regulation 355/22, the provisions contained in Section 21.1 of the HTA and Regulation 355/22 shall prevail.

PART III – GENERAL

19. Administration

- (1) The Director or their designate shall administer this By-law and establish 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 deems necessary, without amendment to this By-law.
- (2) The Director or their designate shall prescribe all forms and notices, including the Penalty Order, necessary to implement this By-law and may amend such forms and notices from time to time, as the Director deems necessary, without amendment to this By-law.
- (3) The Director or their designate may develop on-line forms and an Administrative Penalty on-line portal for a Person to submit a request for a Screening Review, a Hearing Review, and any documents, evidence, submissions and information.
- (4) The position of Screening Officer is established through delegated authority and the Screening Officer shall be appointed by the Director.
- (5) Prescribed Authorized Persons who issue a Penalty Order shall not accept payment of an Administrative Penalty respecting a Penalty Order.
- (6) Where a Penalty Order is set aside, any amount payable to the victims' justice fund is also set aside.

- (7) Once a Penalty Order has been paid, there is no further option for dispute including any review, appeal or court proceeding.

20. A Person may act through Authorized Representative

- (1) A Person to whom a Penalty Order has been served, may act through an Authorized Representative. The Authorized Representative may sign and deliver, on behalf of the Person, any documents required to be delivered, including certification of service if the Authorized Representative delivered the documents in connection with a request for an appeal or review, and may appear on behalf of the Person at any Screening Review or Hearing Review.

21. Conflict of Interest

- (1) In the event that a Person requesting a review or appeal to a Screening Officer is:
- a. an employee of the City;
 - b. a member of the City's Council;
 - c. the Child of a person referenced in paragraphs a) or b);
 - d. the Parent of a person referenced in paragraphs a) or b); or
 - e. the Spouse of a person referenced in paragraphs a) or b).

there is a conflict of interest for the Screening Officer to conduct a review. The Screening Officer shall direct that the matter be referred to a Hearing Officer and the request for an appeal of the Penalty Order shall be dealt with as a request for a Hearing Review. The Screening Officer Review Form shall be deemed to be a Hearing Officer Review Form.

- (2) The Person shall be notified of the conflict of interest and shall be given the opportunity to deliver to the City a written request as to which method of hearing they wish to have at the Hearing Review, and may attach or submit with the written request any documents, evidence, submissions and any other information that the Person believes should be considered by the Hearing Officer. The Hearing provisions of this By-law shall apply.

22. Severability

- (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.

23. Interpretation

- (1) The provisions in Part VI of the *Legislation Act*, 2006, S.O. 2006, c.21, Sched. F, ("*Legislation Act, 2006*") shall apply to this By-law.
- (2) Where words and phrases used in this By-law are defined in the *HTA* but not defined in this By-law, the definitions in the *HTA* shall apply to such words and phrases.
- (3) Time Limits/Deadlines – Time limits/deadlines that would otherwise expire on a Holiday are extended to include the next day that is not a Holiday

24. Short Title

- (1) This By-law may be referred to as the Administrative Penalty By-law for *HTA* offences.

25. Effective Date

- (1) This By-law shall come into force and effect on the dated of its adoption.

Read, passed and adopted in open council this 15th day of January 2025.

Mario Zanth, Mayor

Monique Ouellet, Clerk

Schedule "A"

Administrative Penalties

- (1) The amount of the administrative penalty shall be the sum of the following amounts:
1. In respect of a contravention of Subsection 128 (1) of the *HTA*, the amount determined in accordance with the following formula,
$$A \times B$$

in which,

"A" is the number of kilometres per hour by which the Person driving the motor vehicle exceeds the speed limit set out in Subsection 128 (1) of the Act, and

"B" is the penalty rate set out in Column 2 of Table 1 that is opposite the value of "A" described in Column 1 of Table 1.
 2. \$8.25, to reflect costs incurred by the authorized Person to access the name and most recent address of the Person who is subject to the Penalty Order.
 3. The amount determined under Subsections (2) as applicable, to be credited to the victims' justice fund account in accordance with Section 19 of Regulation 355/22.
- (2) For a contravention of Subsection 128 (1) of the *HTA*, the amount mentioned in paragraph (1) is,
- a. if the amount determined under paragraph 1 of Subsection (1) is \$1000 or less, the amount set out in Column 2 of Table 2 that is opposite the amount determined under paragraph 1 of Subsection (1) described in Column 1 of Table 2; or
 - b. if the amount determined under paragraph 1 of Subsection (1) is greater than \$1000, the amount that is 25 per cent of that amount.

Table 1

Item	Column 1 Kilometres per hour over the maximum speed limit	Column 2 Penalty rate in community safety zone or school zone
1.	1 to 19 kilometres per hour over the maximum speed limit	\$5.00 per kilometre
2.	20 to 29 kilometres per hour over the maximum speed limit	\$7.50 per kilometre
3.	30 to 49 kilometres per hour over the maximum speed limit	\$12.00 per kilometre
4.	50 kilometres per hour or more over the maximum speed limit	\$19.50 per kilometre

Table 2

Item	Column 1 Amount determined under paragraph 1 of Subsection (1) of this Section	Column 2 Amount mentioned in paragraph 6 of Subsection (1) of this Section
1.	\$0 - \$50	\$10
2.	\$51 - \$75	\$15
3.	\$76 - \$100	\$20
4.	\$101 - \$150	\$25
5.	\$151 - \$200	\$35
6.	\$201 - \$250	\$50
7.	\$251 - \$300	\$60
8.	\$301 - \$350	\$75
9.	\$351 - \$400	\$85
10.	\$401 - \$450	\$95
11.	\$451 - \$500	\$110
12.	\$501 - \$1000	\$125