

The Corporation of the City of Guelph

By-law Number (2025) - 21055

A by-law to establish an Administrative Penalty System in the City of Guelph.

Whereas Sections 102.1 and 434.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, and O. Reg. 333/07, as amended, authorize municipalities to establish an administrative monetary penalty system requiring a person to pay an administrative penalty for a contravention of any designated by-law;

And whereas the purpose of the system of administrative penalties established by the municipality shall be to assist the municipality in promoting compliance with its designated by-laws;

And whereas the Council of The Corporation of the City of Guelph considers it desirable to provide for a system of administrative penalties and administrative fees for the designated City by-laws, or portions of the designated City by-laws set out herein;

The Council of the Corporation of the City of Guelph enacts as follows:

1. Title

1.1 This by-law shall be known and cited as the "Administrative Penalty By-law".

2. Definitions

2.1 Where words and phrases used in this by-law are not defined herein but are defined in the *Highway Traffic Act* with respect to any matters subject to a by-law designated under Section 102.1 of the *Municipal Act, 2001*, the definitions in the *Highway Traffic Act* shall apply.

2.2 Where words and phrases used in this by-law are not defined herein but are defined in the *Building Code Act, 1992* the definitions in the *Building Code Act, 1992* shall apply.

2.3 In this by-law, the following words have the following meanings:

"**Administrative Fee**" means any fee(s) specified in Schedule "C" of this by-law, as may be amended from time to time;

"**Administrative Penalty**" means an administrative penalty as set out in Schedules "A" and "B" of this by-law;

"**Building Code Act, 1992**" means the *Building Code Act, 1992*, as amended from time to time or any successor thereof;

"**City**" means The Corporation of the City of Guelph and/or the geographical limits of the City of Guelph, depending on the context of the provision in which the term appears.

"**Designated By-law**" means a City by-law, or a part or provision of a City by-law, that is designated under this or any other by-law and is listed in an attached Schedule to this by-law to which this Administrative Penalty By-law applies;

"**Effective Date of Service**" means the date on which service of a Penalty Notice is deemed to be effective in accordance with this by-law;

"**General Manager**" means the General Manager of Legal and Court Services of the City / City Solicitor, or their designate or successor;

"**Highway Traffic Act**" or "**HTA**" means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended from time to time or any successor thereof;

"**Hearing Decision**" means the decision of a Hearing Officer, as set out in Section 6;

"Hearing Non-Appearence Fee" means an Administrative Fee established by the City from time to time in respect of a Person's failure to appear at the time and place scheduled for a hearing before a Hearing Officer, as listed in Schedule "C";

"Hearing Officer" means any person appointed by the City from time to time pursuant to the Screening and Hearing Officer By-law, as amended from time to time, to perform the functions of a hearing officer in accordance with this by-law;

"Holiday" means a Saturday, Sunday and any statutory holiday in the Province of Ontario or any day on which the offices of the City are officially closed for business;

"Late Payment Fee" means an Administrative Fee established by the City from time to time in respect of a Person's failure to pay an Administrative Penalty within the time prescribed in this by-law, as listed in Schedule "C";

"MTO Search Fee" means an Administrative Fee established by the City from time to time for any search of the records of, or any inquiry to, the Ontario Ministry of Transportation, or related authority, for the purposes of this by-law, as listed in Schedule "C";

"Municipal Act, 2001" means *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time or any successor thereof;

"NSF Fee" means a fee established by the City, as set out in the City's Fees and Charges By-law, as amended from time to time, in respect of any payment to the City from a Person, for which there are insufficient funds available or the transaction is declined;

"Officer" means a person appointed by the City as a Municipal Law Enforcement Officer and any police officer;

"Owner" means the Person(s) whose name(s) appears on the permit for the vehicle as provided by the Ontario Ministry of Transportation, and if the vehicle permit consists of a vehicle portion and a plate portion and different Persons are named on each portion, the Person(s) whose names appears on the plate portion;

"Penalty Notice" means a notice as described in Section 4;

"Penalty Notice Date" means the date of the contravention;

"Penalty Notice Number" means the reference number specified on the Penalty Notice that is unique to that Penalty Notice;

"Person" includes an individual, sole proprietorship, partnership, limited partnership, trust or corporation, or an individual in his or her capacity as a trustee, executor, administrator or other authorized agent;

"Plate Denial Fee" means an Administrative Fee established by the City from time to time, in relation to plate denial, as listed in Schedule "C";

"Provincial Offences Act" means the *Provincial Offences Act*, R.S.O., 1990, c. P. 33, as amended from time to time, or any successor thereof;

"Regulation" means O. Reg. 333/07, made under the *Municipal Act, 2001*, as amended from time to time, or any successor thereof;

"Screening and Hearing Officer By-law" means the Screening and Hearing Officer By-law of the City, as amended from time to time, or any successor thereof;

"Screening Decision" means the decision of a Screening Officer, as set out in Section 5;

"Screening Non-Appearence Fee" means an Administrative Fee established by the City from time to time in respect of a Person's failure to appear at the time and place scheduled for a screening with a Screening

Officer, as listed in Schedule "C";

"Screening Officer" means any person appointed by the City from time to time pursuant to the Screening and Hearing Officer By-law to perform the functions of a screening officer pursuant to this by-law; and

"Statutory Powers Procedure Act" means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended from time to time, or any successor thereof.

3. **Application of this By-law**

- 3.1 The City's By-laws, or portions of City By-laws, listed in the attached Schedule "A-1" of this by-law shall be Designated By-laws for the purposes of Section 102.1 of the *Municipal Act, 2001* and paragraph 3(1)(b) of the Regulation.
- 3.2 The City's By-laws, or portions of City By-laws, listed in the attached Schedule "B-1" of this by-law shall be Designated By-laws for the purposes of Section 434.1 of the *Municipal Act, 2001* or Section 15.4.1 of the *Building Code Act, 1992*, as applicable.
- 3.3 The Administrative Penalties designated in the attached Schedules "A-1" and "B-1" may be dealt with by a Penalty Notice.
- 3.4 The attached Schedules "A-1" and "B-1" of this by-law set out the Administrative Penalty and include short form wording to be used on Penalty Notices for the contraventions of Designated By-laws.
- 3.4 The attached Schedule "C" of this by-law sets out the Administrative Fees imposed for purposes of this by-law.

4. **Penalty Notice**

4.1 (a) (1) Schedule "A-1" By-laws (Parking)

If a vehicle has been left parked, standing or stopped in contravention of a Designated By-Law in Schedule "A-1", the Owner of the vehicle shall, upon issuance of a Penalty Notice in accordance with this By-Law, be liable to pay to the City an Administrative Penalty in the amount specified in Schedule "A-1", and shall be liable to pay to the City any Administrative Fees in accordance with this By-Law.

(b) (1) Schedule "B-1" By-laws

If a Person is found in contravention of a Designated By-Law in Schedule "B-1", the Person shall, upon issuance of a Penalty Notice in accordance with this By-Law, be liable to pay to the City an Administrative Penalty in the amount specified in Schedule "B-1" and shall be liable to pay to the City any Administrative Fees in accordance with this By-Law.

4.2 An Officer who has reason to believe that a Person has contravened a Designated By-Law may issue a Penalty Notice in accordance with this By-Law.

4.3 The Penalty Notice shall include the following information:

- (a) the Penalty Notice Date;
- (b) the Penalty Notice Number;
- (c) the short form wording for the contravention;
- (d) the amount of the Administrative Penalty;
- (e) information respecting the process by which the person may pay the

Administrative Penalty or request a review of the Administrative Penalty;

(f) a statement advising that an Administrative Penalty will constitute a debt of the Owner or Person to the City; and

(g) the name and identification number of the Officer issuing the Penalty Notice.

5. Review by Screening Officer

5.1 A Person who is served a Penalty Notice may, within 30 calendar days after the Effective Date of Service, request, in accordance with Subsection 5.3, that the Administrative Penalty be reviewed by a Screening Officer.

5.2 A Person who is served a Penalty Notice may, in accordance with Subsection 5.3, request that the Screening Officer extend the time to request a review to sixty (60) calendar days after the Effective Date of Service.

5.3 A request for a review, or for an extension of time to request a review, shall be in the form and manner as determined by the General Manager from time to time, and shall include the Penalty Notice Number and the Person's contact information. Where a request is made by a Person who is not the Owner, the Person shall submit with the request an authorized agent/representative form, in the form as determined by the General Manager from time to time. Incomplete forms or forms not submitted in the form and manner as determined by the General Manager may not be accepted or processed, at the discretion of the General Manager.

5.4 The Screening Officer may only extend the time to request a review of the Administrative Penalty when the Person requesting the extension demonstrates, on a balance of probabilities, extenuating circumstances that warrant the extension of time. The Screening Officer will consider the request for extension before reviewing the Administrative Penalty.

5.5 Where an extension of time to request a review of an Administrative Penalty is not granted by the Screening Officer and no request is made to have the Administrative Penalty reviewed in accordance with Subsection 5.1, the Administrative Penalty and any applicable Administrative Fees shall be deemed to be affirmed and shall not be subject to review.

5.6 Where neither a review nor an extension of time for review are requested in accordance with this by-law, or where the Person fails to request a review within any extended period of time granted by the Screening Officer:

(a) the Person(s) served with the Penalty Notice shall be deemed to have waived the right to a screening and a hearing in relation to such notice;

(b) the Administrative Penalty, and any applicable Administrative Fees, shall be deemed to be affirmed; and

(c) the Administrative Penalty, and any applicable Administrative Fees, shall not be subject to review.

5.7 On a review of an Administrative Penalty, the Screening Officer may affirm the Administrative Penalty, including any applicable Administrative Fees, or the Screening Officer may cancel or reduce the Administrative Penalty or extend the time for payment of the Administrative Penalty, including any applicable Administrative Fees, on the following grounds:

(a) where the Screening Officer is satisfied, on a balance of probabilities, that a contravention of a Designated By-law was not proven as set out in the Penalty Notice; or

(b) where the Screening Officer is satisfied, on a balance of probabilities, that the cancellation, reduction or extension of the time for payment of

the Administrative Penalty, including any applicable Administrative Fees, is necessary to reduce any undue hardship.

- 5.8 The Person that requested a review, or an extension to the time to request a review, by the Screening Officer shall be served with a copy of the Screening Decision within fifteen (15) calendar days after the review of the request is conducted by the Screening Officer, in accordance with Subsection 7.3.

6.0 Review by Hearing Officer

- 6.1 Any Person subject to a Screening Decision may request a review of the Screening Decision by a Hearing Officer, in accordance with Subsection 6.3, within thirty (30) calendar days after the date on which the Screening Decision was issued.
- 6.2 A Person subject to a Screening Decision may, in accordance with Subsection 6.3, request that the Hearing Officer extend the time to request a review of the Screening Decision to sixty (60) calendar days after the date on which the Screening Decision was issued.
- 6.3 A request for a review by the Hearing Officer, or for an extension of time to request a review before the Hearing Officer, shall be in the form and manner as determined by the General Manager from time to time, and shall include the Penalty Notice Number and the Person's contact information. Where a request is made by a Person who is not the Owner, the Person shall submit with the request an authorized agent/representative form, in the form as determined by the General Manager from time to time. Incomplete forms or forms not submitted in accordance with the form and manner as determined by the General Manager may not be accepted or processed, at the discretion of the General Manager.
- 6.4 The Hearing Officer may only extend the time to request a review of the Screening Decision where the Person requesting the extension demonstrates, on a balance of probabilities, extenuating circumstances that warrant the extension of time. The Hearing Officer will consider the request for extension before reviewing the Screening Decision.
- 6.5 Where an extension of time for a hearing review is not granted by the Hearing Officer and no request is made to have the Screening Decision reviewed in accordance with Subsection 6.1, the Screening Decision shall be deemed to be affirmed, and shall not be subject to review.
- 6.6 Where neither a hearing review nor an extension of time for a hearing review are requested in accordance with this by-law, or where the Person fails to request a hearing review within any extended period of time granted by the Hearing Officer:
- (a) the Person(s) served with the Penalty Notice shall be deemed to have waived the right to a hearing review in relation to such notice;
 - (b) the Screening Decision shall be deemed to be affirmed; and
 - (c) the Screening Decision shall not be subject to review.
- 6.7 A Person requesting a review by the Hearing Officer in accordance with this by-law shall be given at least thirty (30) calendar days' notice of the date, time and place for the review by the Hearing Officer.
- 6.8 On a review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or the Hearing Officer may cancel, reduce or extend the time for payment of the Administrative Penalty, including any applicable Administrative Fees, on the following grounds:
- (a) where the Hearing Officer is satisfied, on a balance of probabilities, that the vehicle was not parked, standing or stopped in contravention of the Designated By-law set out in the Penalty Notice; or

- (b) where the Hearing Officer is satisfied, on a balance of probabilities, that the cancellation, reduction or extension of the time for payment of the Administrative Penalty, including any Administrative Fees, is necessary to reduce any undue hardship.
- 6.9 A Hearing Officer shall not make any decision respecting a review of the Screening Decision unless the Hearing Officer has given the Person subject to the Screening Decision and the City an opportunity to be heard.
- 6.10 The hearing shall be subject to the *Statutory Powers Procedure Act*.
- 6.11 The Hearing Officer may consider and rely on a Penalty Notice signed by an Officer, including any associated photograph taken by the Officer.
- 6.12 In addition to anything else that is admissible at a hearing as evidence in accordance with the Statutory Powers Procedure Act, the materials referred to in Subsection 6.11 are admissible as evidence as proof of the facts contained therein, in the absence of evidence to the contrary.
- 6.13 If evidence referred to in Subsection 6.11 is being admitted at a hearing, the Hearing Officer shall not adjourn the hearing for the purpose of having the Officer attend to give evidence unless the Hearing Officer is satisfied that the oral evidence of the Officer is necessary to ensure a fair hearing.
- 6.14 The Person that requested the hearing, and any Person and Owner subject to the related Penalty Notice if different from the Person that requested the hearing, shall be served with a copy of the Hearing Decision within fifteen (15) calendar days of the hearing review.
- 6.15 The decision of a Hearing Officer is final.
- 6.16 Where notice of review has been given in accordance with this by-law, and the Person fails to appear at the time and place scheduled for a review by the Hearing Officer:
 - (a) the Person shall be deemed to have abandoned the hearing;
 - (b) the Screening Decision shall be deemed to be affirmed; and
 - (c) the Person shall pay to the City a Hearing Non-Appearance Fee, in addition to any other fees payable pursuant to this by-law.

7. Service of Documents

- 7.1 Service of a Penalty Notice pursuant to Paragraph (a) of Subsection 4.1 in any of the following ways, with respect to a contravening vehicle, is deemed effective by:
 - (a) affixing it to the vehicle in a conspicuous place at the time of the contravention;
 - (b) delivering it personally to the operator of the vehicle or the person having care and control of the vehicle at the time of the contravention;
 - (c) mailing it by regular mail to the Owner of the vehicle at the address as set out on the ownership as soon as reasonably practicable after the contravention; or
 - (d) delivering it to an occupant at the address of the Owner of the vehicle as set out on the ownership, who appears to be at least sixteen (16) years of age, as soon as reasonably practicable after the contravention.
- 7.2 Service of a Penalty Notice pursuant to Paragraph (b) of Subsection 4.1 in any of the following ways is deemed effective by:
 - (a) delivering it personally to the Person named in the Penalty Notice at the time of the contravention;

- (b) mailing it by regular mail to the Person named in the Penalty Notice at the Person's last known address, as soon as reasonably practicable after the contravention; or
- (c) delivering it to an occupant, who appears to be at least sixteen (16) years of age, at the last known address of the Person named in the Penalty Notice, as soon as reasonably practicable after the contravention.

7.3 Service of any document other than a Penalty Notice may be made by:

- (a) delivering it personally;
- (b) delivering it to an occupant, who appears to be at least sixteen (16) years of age, at the last known address of the Owner or the Person to whom the documents apply;
- (c) delivering it by regular mail to the last known address of the Owner or the Person to whom the documents apply; or
- (d) by email, to the email address provided by the Owner or Person to whom the documents apply.

7.4 For purposes of this by-law, with respect to any matters subject to a By-law designated under Section 102.1 of the *Municipal Act, 2000*, the last known address of the Owner shall be the address as set out on the vehicle ownership or, where an updated address has been provided in writing by the Owner to the City at the time of service, such updated address.

7.5 Any Penalty Notice or document sent in writing by regular mail, as set out in this by-law, is deemed to have been served on the fifth (5th) calendar day after the date of mailing.

7.6 Any Penalty Notice affixed to the vehicle to which it applies, or any Penalty Notice or document delivered personally in accordance with this by-law, is deemed to have been served on the date and time of such delivery.

7.7 Service on a Person who is not the Owner, in accordance with this by-law, including service of a Penalty Notice, Screening Decision or Hearing Decision by handing it to the Person, shall be deemed to be service on the Owner.

7.8 Any document served by email, as set out in this by-law, shall be deemed to have been served on the day of transmission.

8. **Administration**

8.1 The General Manager shall administer this by-law and is delegated the power to:

- (a) designate locations within the City, and times, for conducting reviews and hearings under this by-law; and
- (b) prescribe all forms, notices, including the Penalty Notice, guidelines, practices, processes and procedures, necessary to implement this by-law and the administrative penalty system, and to amend the same from time to time as the General Manager deems necessary.

8.2 The General Manager is delegated the power to establish and implement any policies necessary to implement this by-law and the administrative penalty system at the City, and may amend the same from time to time, as the General Manager deems necessary.

8.3 For the purposes of Subsection 23.2(4) of the *Municipal Act, 2001*, Council has determined that any powers delegated pursuant to this by-law are minor in nature.

9. **Penalty Payment and Administrative Fees**

- 9.1 A Penalty Notice that is paid prior to a review by Screening Officer shall be deemed as final and will not be subject to screening, unless there is an error on the face of the Penalty Notice as determined by the General Manager.
- 9.2 Unless otherwise stated in this by-law, upon issuance of a Penalty Notice pursuant to Subsection 4.1, the Administrative Penalty set out in such notice shall be due and payable to the City thirty (30) calendar days from the Effective Date of Service of the Penalty Notice.
- 9.3 Notwithstanding Subsection 9.2, where an Administrative Penalty, including any Administrative Fees, is (are) affirmed, or reduced by a Screening Officer or a Hearing Officer, the Administrative Penalty and any Administrative Fees shall be due and payable on the date specified in the Screening Decision or Hearing Decision, as the case may be, or if no such date is specified, thirty (30) days after service of the Screening Decision or the Hearing Decision.
- 9.4 Notwithstanding Subsection 9.2, where a Person makes a request for an extension of time for payment, and the request is granted, the date on which the Administrative Penalty is due and payable shall be the date established in accordance with such extension of time.
- 9.5 Where an Administrative Penalty, with respect to a Penalty Notice issued pursuant to Paragraph (a) of Subsection 4.1, is not paid on or before the date it is due and payable, in addition to the Administrative Penalty and any other fees that may be payable pursuant to this by-law, the Owner of the vehicle subject to the Penalty Notice shall be liable to pay to the City the MTO Search Fee.
- 9.6 Where an Administrative Penalty is not paid within thirty (30) calendar days after it becomes due and payable, in addition to the Administrative Penalty and any other fees that may be payable pursuant to this by-law:
- (a) with respect to a Penalty Notice issued pursuant to Paragraph (a) of Subsection 4.1, the Owner of the vehicle subject to the Penalty Notice shall be liable to pay to the City the Late Payment Fee;
 - (b) with respect to a Penalty Notice issued pursuant to Paragraph (b) of Subsection 4.1, the Person subject to the Penalty Notice shall be liable to pay to the City the Late Payment Fee.
- 9.7 Where an Administrative Penalty issued pursuant to Paragraph (a) of Subsection 4.1 and any Administrative Fees are not paid within seventy-five (75) calendar days after they become due and payable, the City may:
- (a) notify the Registrar of Motor Vehicles of the default and the Registrar shall not validate the permit of a Person named in the default notice nor issue a new permit to that Person, in respect of the vehicle to which the Administrative Penalty and Administrative Fees apply, until the penalty and any applicable fees are paid, in which case the Owner of the vehicle in respect of which the Penalty Notice was issued shall, in addition to the Administrative Penalty and any other fees that may be payable pursuant to this by-law, pay to the City a Plate Denial Fee; and
 - (b) pursue any other collection mechanisms available to the City pursuant to the Regulation or at law.
- 9.8 Where a person provides a method of payment to the City for payment of any Administrative Penalty or Administrative Fee, which has insufficient funds available in the account on which the instrument was drawn, the Owner shall, in addition to the Administrative Penalty and any other fees that may be payable pursuant to this by-law, be liable to pay to the City an NSF Fee.
- 9.9 All amounts due and payable to the City pursuant to this by-law constitute a debt to the City.
- 9.10 Where an Administrative Penalty is cancelled by a Screening Officer or a

Hearing Officer, any related Administrative Fee is also cancelled.

- 9.11 Where a Person has paid an Administrative Penalty or an Administrative Fee that is cancelled or reduced pursuant to this by-law, the City shall refund the amount cancelled or reduced.
- 9.12 Where the Person served with a Penalty Notice issued pursuant to Paragraph (a) of Subsection 4.1, or issued a Screening Decision, is not the Owner, the Owner may exercise any right that such Person may exercise under this by-law.
- 9.13 No Officer may accept payment in respect of an Administrative Penalty or Administrative Fee.
- 9.14 Payment of any Administrative Penalty or Administrative Fee must be received on or before the date on which it is due and payable, or any extended due date in accordance with this by-law, and will not be credited until received by the City.
- 9.15 Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.

10. **Offences**

10.1 No Person shall:

- (a) make a false, misleading or fraudulent statement in relation to a Penalty Notice, or on any form submitted to the City in relation to a Penalty Notice; or
- (b) obstruct an Officer exercising any authority under this by-law.

10.2 No Person shall attempt, directly or indirectly, to communicate with a Screening Officer or Hearing Officer for the purpose of influencing or interfering, financially, politically or otherwise with, the Screening Officer or Hearing Officer respecting a Penalty Notice and/or respecting a power of decision in a proceeding that is or will be pending before a Screening Officer or Hearing Officer, except:

- (a) a Person who is entitled to be heard in the proceeding or the Person's lawyer, licensed paralegal or authorized representative; and
- (b) only by that Person or the Person's lawyer, licensed paralegal or authorized representative during the hearing of the proceeding in which the issues arise.

10.3 Any Person who contravenes Subsection 10.1 or Subsection 10.2 is guilty of an offence and, upon conviction, is liable to a fine as provided for in the *Provincial Offences Act*.

10.4 If a corporation has contravened Subsection 10.1 or Subsection 10.2, every Director and officer who knowingly concurred in such a contravention is guilty of an offence.

11. **Interpretation**

11.1 Nothing in this by-law prevents a Screening Officer or a Hearing Officer from seeking or receiving legal advice.

11.2 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections clauses, and schedules in this by-law.

11.3 The part and section headings contained throughout this document are for reference purposes only and do not form a part of this by-law. This By-law is to be interpreted without reference to such headings.

- 11.4 References in this by-law to any statute or statutory provisions include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.
- 11.5 This By-law shall be read with all changes in gender or number as the context requires.
- 11.6 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 11.7 The words "include", "includes", "including" are not to be read or interpreted to limit the words, phrases, or descriptions that precede it.
- 11.8 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, 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.
12. **Effective Date**
- 12.1 This By-law shall come into force and effect on April 1, 2025.

Passed this twenty-fifth day of February, 2025.

Schedules:

Schedule A-1: Designated Bylaw (Parking), Short Form Wordings, and Administrative Penalties

Schedule B-1: Designated By-laws (Other), Short Form Wordings, and Administrative Penalties

Schedule C: Administrative Fees

Cam Guthrie, Mayor

Dylan McMahon, Acting City Clerk