

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 063-2019

A By-law to establish a comprehensive system of Administrative Monetary Penalties for the City of Vaughan, repeal Screening and Hearing Officers By-law 157-2009, as amended, and amend Licensing By-law 315-2005, as amended.

WHEREAS section 8(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to enable it to govern its affairs as it considers appropriate, and enhance its ability to respond to municipal issues;

AND WHEREAS section 391(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides for a municipality to impose fees or charges on persons for services or activities it provides and for the use of its property;

AND WHEREAS section 102.1 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may require a person to pay an Administrative Monetary Penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles;

AND WHEREAS section 434.1 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may require a person to pay an Administrative Monetary Penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS section 434.2 of the *Municipal Act*, 2001, S.O. 2001, c. 25, provides that an Administrative Monetary Penalty imposed by the municipality on a person constitutes a debt of the person to the municipality;

AND WHEREAS the Province of Ontario adopted the “Administrative Penalties” regulation, O. Reg 333/07 pursuant to the *Municipal Act*, 2001, S.O. 2001, c. 25, which applies to administrative penalties that are required by the municipality in respect of the parking, standing or stopping of vehicles;

AND WHEREAS the City of Vaughan considers it desirable to have a consolidated Administrative Monetary Penalty by-law that sets out a unified process for all regulatory by-laws to which administrative penalties may apply;

NOW THEREFORE the Corporation of the City of Vaughan enacts this By-law to establish a system of administrative penalties as an additional means of promoting compliance with its by-laws.

1.0 Authority and Short Title

- (1) This By-law was approved by Item No. 26 of Report No. 27 of the Committee of the Whole and passed by Council on September 27, 2018.
- (2) This by-law shall be known and may be cited as the “Administrative Monetary Penalties By-law.”

2.0 Applicability and Scope

- (3) This By-law applies to, and only to, *Designated By-laws*.
- (4) Each *Designated By-law* permitting the issuance of *Administrative Monetary Penalties* shall set out short form wordings and the corresponding *Administrative Monetary Penalty* amounts to be applied for any contravention of such respective *Designated By-law*.

3.0 Definitions and Interpretation

- (1) In this By-law:
 - (a) “Administrative Monetary Penalty” means a monetary penalty as set out in this By-law or in a Designated By-law;
 - (b) “City” means the Corporation of the City of Vaughan;
 - (c) “Contravener” means a person who has contravened any provision of a *Designated By-law* enacted by the City of Vaughan, or a *Motor Vehicle Owner* whose *Motor Vehicle* has been left parked, standing or stopped in contravention of the Parking By-law;
 - (d) “Council” means the council of the *City*;
 - (e) “Delegated Power of Decision” means a power or right, conferred by a *City* By-law, to prescribe the legal rights, powers, privileges, immunities, duties and/or liabilities of any person or party;
 - (f) “Designated By-law” means a by-law or provision of a by-law that is designated under this By-law, as a by-law or provision of a by-law under which a contravention is subject to an *Administrative Monetary Penalty*, in accordance with the authorities

granted under the Municipal Act and its Regulations and the provisions of this By-law, and is listed in Schedule 1 attached to this By-law;

- (g) “Director” means the Director of By-law & Compliance, Licensing & Permit Services and Chief Licensing Officer or his or her designate;
- (h) “Hearings Officer” means a person from appointed by the Director pursuant to this By-law;
- (i) “Motor Vehicle” includes an automobile, motorcycle, motor assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motorized vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act*;
- (j) “Motor Vehicle Owner” means the person whose name appears on the permit for the vehicle, or, in the instance where the vehicle permit consists of a *Motor Vehicle* portion and plate portion and different persons are named on each portion, the person whose name appears on the plate portion;
- (k) “Municipal Law Enforcement Officer” means a person appointed or employed by the *City* as a municipal law enforcement officer under Section 15 of the *Police Services Act*, R.S.O. 1990, c. P.15;
- (l) “Penalty Notice” means a notice issued to a *Contravener* in accordance with this by-law and that makes such *Contravener* liable to pay an *Administrative Monetary Penalty* to the *City*.
- (m) “Police Officer” means a member of the York Regional Police or a member of the Ontario Provincial Police;
- (n) “Relative” includes any of the following persons:
 - (i) spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
 - (ii) parent, including step-child and grandchild;

- (iii) siblings and children of siblings;
- (iv) aunt, uncle, niece, and nephew;
- (v) in-laws, including mother, father, sister, brother, daughter, and son; or,
- (vi) any other person who lives with the person on a permanent basis;
- (o) "Regulation" means the Administrative Penalties, Ontario Regulation 333/07 under the Municipal Act, 2001, S.O. 2001, c.25;
- (p) "Screening Officer" means a person appointed by the Director pursuant to this By-law.

4.0 Procedure

- (1) Every *Contravener* shall, upon issuance of a *Penalty Notice* in accordance with this by-law, be liable to pay to the *City* an *Administrative Monetary Penalty*.
- (2) A *Municipal Law Enforcement Officer* who determines that a *Designated Bylaw* has been contravened, may issue a *Penalty Notice* addressed to the *Contravener*.
- (3) The *Penalty Notice* shall be served on the *Contravener* as soon as is reasonably practicable and shall include the following information:
 - (a) particulars of the contravention;
 - (b) the amount of the *Administrative Monetary Penalty*;
 - (c) information respecting the process by which the person may exercise their right to request a review of the *Administrative Monetary Penalty*; and
 - (d) a statement advising that an *Administrative Monetary Penalty* will, unless cancelled or reduced pursuant to the review process, constitute a debt to the *City*.
- (4) A *Penalty Notice* shall be served by:
 - (a) delivering it personally to the *Contravener* to whom or to which it is addressed; or
 - (b) sending it by registered mail to the *Contravener's* last known address, which shall be deemed effective on the fifth day after it is mailed; or
 - (c) sending it by facsimile transmission to the *Contravener's* last known facsimile transmission number, which shall be deemed effective on the day it is sent; or

- (d) sending it by e-mail transmission to the *Contravener's* last known e-mail address, which shall be deemed effective on the day it is sent.
- (5) Notwithstanding Section 4.0(4), where the *Contravener* has contravened the Parking By-law, a *Penalty Notice* shall be served by:
 - (a) affixing it to the *Motor Vehicle* in a conspicuous place at the time of the contravention;
 - (b) delivering it personally to the person having care and control of the *Motor Vehicle* at the time of the contravention;
 - (c) delivering it personally to the operator of the *Motor Vehicle* at the time of the contravention;
 - (d) delivering it personally to the *Contravener* as soon as reasonably practicable; or
 - (e) sending it by regular mail to the *Contravener's* last known address, which shall be deemed to be served on the fifth day after it is mailed; or
 - (f) sending it by facsimile transmission to the *Contravener's* last known facsimile transmission number, which shall be deemed effective on the day it is sent; or
 - (g) sending it by e-mail transmission to the *Contravener's* last known e-mail address, which shall be deemed effective on the day it is sent.
- (6) No *Municipal Law Enforcement Officer* may accept payment in respect of the *Administrative Monetary Penalty*.

5.0 Screening Officer Review

- (1) A *Contravener* who is served with a *Penalty Notice* may request a review of the *Administrative Monetary Penalty* by the *Screening Officer* within fifteen (15) days of the service date of the *Penalty Notice*.
- (2) A *Contravener* may request that the *Screening Officer* extend the time to request a review within thirty (30) days of the date of the service date of the *Penalty Notice*,
- (3) The *Screening Officer* may extend the time to request a review of an *Administrative Monetary Penalty* where the *Contravener* demonstrates extenuating circumstances that warrant the extension of time.

- (4) If after thirty days the *Contravener* has not requested a review or an extension of time to request a review from the *Screening Officer*, the *Administrative Monetary Penalty* shall be deemed to be affirmed.
- (5) Where the *Screening Officer* has extended the time to request a review, late payment fees shall not be applied until fifteen (15) days after disposition of the matter or at a time otherwise set by the *Screening Officer*.
- (6) Where the *Screening Officer* has extended the time to request a review, enforcement mechanisms in relation to the *Administrative Monetary Penalty* shall be suspended.
- (7) On a review of the *Administrative Monetary Penalty*, the *Screening Officer* may affirm the *Administrative Monetary Penalty*, or the *Screening Officer* may cancel, affirm or vary the decision or extend the time for payment of the *Administrative Monetary Penalty*, on the following grounds:
 - (a) where the *Contravener* establishes, on a balance of probabilities, that the *Contravener* did not commit the act described in the *Penalty Notice*;
 - (b) where the *Contravener* establishes, on a balance of probabilities, that the *Motor Vehicle* was not parked, standing or stopped as described in the *Penalty Notice*; or
 - (c) the cancellation, reduction or extension of the time for payment of the *Administrative Monetary Penalty*, including any late payment administrative fees, is deemed necessary to relieve undue hardship.
- (8) Before making a decision under Sections 5.0(3) or 5.0(7), the *Screening Officer* shall conduct a meeting with the *Contravener*.

6.0 Hearing Officer Review

- (1) A *Contravener* may request within 15 days of the *Screening Officer's* decision that a *Hearing Officer* review such decision.
- (2) A *Contravener* may request that the *Hearing Officer* extend the time to request a review of the *Screening Officer's* decision within thirty (30) days of notification of the *Screening Officer's*.
- (3) The *Hearing Officer* may extend the time to request a review of the *Screening Officer's*

decision where the *Contravener* demonstrates extenuating circumstances that warrant the extension of time.

- (4) If after thirty days the *Contravener* has not requested a review or an extension of time to request a review from the *Hearing Officer*, the *Screening Officer's* decision shall be deemed affirmed.
- (5) Where the *Hearing Officer* has extended the time to request a review, late payment fees shall not be applied until fifteen (15) days after disposition of the matter or at a time otherwise set by the *Hearing Officer*.
- (6) Upon review of the *Screening Officer's* decision, the *Hearing Officer* may cancel, affirm or vary the decision or extend the time for payment of the *Administrative Monetary Penalty* on the following grounds:
 - (a) where the *Contravener* establishes, on a balance of probabilities, that the *Contravener* did not commit the act described in the *Penalty Notice*; or
 - (b) where the *Contravener* establishes, on a balance of probabilities, that the *Motor Vehicle* was not parked, standing or stopped as described in the *Penalty Notice*; or
 - (c) the cancellation, reduction or extension of the time of payment of the *Administrative Monetary Penalty* is deemed necessary to relieve undue hardship.
- (7) Before making a decision under Sections 6.0(3) or 6.0(6), the *Hearing Officer* shall conduct a hearing where the *Contravener* and the *City* are given an opportunity to be heard.
- (8) All hearings conducted by the *Hearing Officer* shall be in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22, as amended.
- (9) A decision of the *Hearing Officer* is final.

7.0 Establishment and Appointment of Screening and Hearings Officers

- (1) The position of *Screening Officer* is established for the purpose of exercising *Delegated Powers of Decision* and shall be appointed by the *Director*.
- (2) The following are not eligible for appointment as a *Screening Officer*:
 - (a) a member of Council of the City; or
 - (b) the relative of a person referenced in subsection 7.0(2)(a);

- (3) The position of *Hearing Officer* is established for the purpose of exercising *Delegated Powers of Decision* and shall be appointed by the *Director*.
- (4) The following are not eligible for appointment as a *Hearing Officer*:
 - (a) an employee or member of *Council* of the *City*;
 - (b) the *Relative* of a person referenced in subsection 7.0(4)(a); or
 - (c) a person indebted to the *City* other than:
 - (i) in respect of current real property taxes; or
 - (ii) pursuant to an agreement with the *City*, the terms with which the person is in compliance.
- (5) No person shall attempt, directly or indirectly, to communicate for the purpose of influencing a *Screening Officer* or a *Hearing Officer* respecting the determination of a matter respecting a *Delegated Power of Decision* in a proceeding that is or will be pending before such officers, except the *Contravener* who is entitled to be heard in the proceeding, or the *Contravener's* authorized agent, and only during the screening or hearing of the proceeding relating to the matter.

8.0 Enforcement

- (1) Where a *Contravener* has paid an *Administrative Monetary Penalty* that is then cancelled or reduced pursuant to section 5.0(7) or 6.0(6), the *City* shall refund the amount cancelled or reduced.
- (2) Where a *Contravener* fails to attend a meeting with a *Screening Officer* or a hearing in front of a *Hearing Officer*, the *Administrative Monetary Penalty* shall be affirmed, and the *City* shall levy against the person a failure-to-attend fee as prescribed by the *City's Fees and Charges By-law*, as amended.
- (3) In the event of extenuating circumstances, a *Contravener* subject to a failure-to-attend fee may request in writing to the *Director* that the matter be reviewed, and upon providing any and all evidence satisfactory to the *Director*, the failure-to-attend fee may be cancelled, and an opportunity for another hearing granted, with the decision by the *Director* being final.

- (4) Where an *Administrative Monetary Penalty* has been paid within fifteen (15) days after the date that it becomes due and payable to the *City*, the *Contravener* shall not be charged with an offence in respect of the same contravention.
- (5) Where an *Administrative Monetary Penalty* is not paid within fifteen (15) days after the date it becomes due and payable to the *City*, the *City* shall levy against the *Contravener* a late payment administrative fee as prescribed by the *City's Fees and Charges By-law*, as amended.
- (6) If an *Administrative Monetary Penalty* issued to a *Contravener* who has contravened the *Parking By-law* is not paid within fifteen (15) days after the date that it is deemed affirmed and thereafter becomes due and payable to the *City*, the *City* may file a certificate of default in a court of competent jurisdiction, upon which time the certificate shall be deemed to be an order of the court and the *City* may enforce it as such.
- (7) If an *Administrative Monetary Penalty* issued to a *Contravener* who has contravened the *Parking By-law* is not paid within fifteen (15) days after the date that it becomes due and payable to the *City*, the *City* may notify the Ministry of Transportation of the default and the Ministry shall not validate the permit of the *Contravener* nor issue a new permit to the *Contravener* until the penalty is paid.
- (8) Where the *City* is required to obtain documents or information about the *Motor Vehicle* found in contravention of the *Parking By-law* or about the *Contravener*, the *City* shall levy against the *Contravener* an administrative fee as prescribed by the *City's Fees and Charges By-law*.
- (9) An *Administrative Monetary Penalty* that is deemed to be affirmed pursuant to section 5.0(4) or 6.0(4), or reduced or in respect of which the time for payment has been extended pursuant Section 5.0(6) or 6.0(6), the *Administrative Monetary Penalty* becomes a debt to the *City* of each *Contravener* to whom the *Penalty Notice* was given.

9.0 Penalties

- (1) An offence under a *Designated By-law* shall be subject to an *Administrative Monetary Penalty* as set out in such *Designated By-law*, subject to the provisions of this *By-law*.

10.0 Delegation

- (1) For the purposes of subsection 23.3(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, it is the opinion of *Council* that the powers delegated to the *Screening Officer* and the *Hearings Officer* and the *Director* pursuant to this By-law are of a minor nature.

11.0 Severability

- (1) Where a court of competent jurisdiction declares any section of this By-law to be invalid, or to be not in force, or without effect, it is the intention of *Council* in enacting this By-law that the remainder of this By-law shall continue to be in force and applied and enforced in accordance with its terms to the fullest extent possible according to law.

12.0 By-laws Repealed and Amended

- (1) The following By-laws of the *City* are hereby repealed: By-law 157-2009, By-law 082-2015, and By-law 013-2016.
- (2) By-law 315-2005, as amended, is hereby further amended by repealing section 8.0. and replacing it with the following provision:

"Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with the Administrative Monetary Penalties By-law, be liable to pay the City an Administrative Monetary Penalty of \$350."
- (3) This By-law shall come into force and effect on the date enacted by Council.

Enacted by City of Vaughan Council this 1st day of May, 2019.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Schedule 1 – Designated By-laws

By-law #	Title	Penalties Provision
064-2019	Parking By-law	Schedule 10
315-2005	Licensing By-law	Part 8.0