



# MISSISSAUGA

## THE CORPORATION OF THE CITY OF MISSISSAUGA

### Screening and Hearing Officer By-law 0285-2013

(Amended by 0024-2014, 0155-2015, 0185-2018)

**WHEREAS** sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") authorize The Corporation of the City of Mississauga to pass by-laws necessary or desirable for municipal purposes;

**AND WHEREAS** subsection 102.1(1) of the *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 slopping of vehicles;

**AND WHEREAS** the Province adopted the Administrative Penalties Regulation O. Reg. 333/07 pursuant to the *Municipal Act, 2001* which applies to administrative penalties in respect of the parking, standing or stopping of vehicles;

**AND WHEREAS** under the Administrative Penalties Regulation a person who receives a Penalty Notice shall have the right to request a review of the administrative penalty by a Screening Officer appointed by the municipality;

**AND WHEREAS** under the Administrative Penalties Regulation, a person who receives notice of a decision from a Screening Officer shall have the right to a review of the Screening Officer's decision by a Hearing Officer appointed by the municipality;

**AND WHEREAS** the City of Mississauga considers it desirable and necessary to establish the position of a Screening Officer and a Hearing Officer which are required for the operation of the City's Administrative Penalty By-law;

**AND WHEREAS** section 425 of the *Municipal Act, 2001* authorizes the Corporation of the City of Mississauga to pass by-laws providing that a person who contravenes a by-law of the City of Mississauga passed under that Act is guilty of an offence;

**NOW THEREFORE** the Council for The Corporation of the City of Mississauga hereby ENACTS AS FOLLOWS:

#### **PART I – SHORT TITLE**

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

## **PART II - DEFINITIONS**

2. For the purposes of this By-law:

**"Administrative Penalty"** means a monetary penalty imposed for a contravention of a Designated By-law as set out in the Administrative Penalty By-law;

**"Administrative Penalty By-law"** means the City's Administrative Penalty By-law 0282 -2013, as amended (or its successor), being a by-law to establish a system of administrative penalties respecting the stopping, standing or parking of vehicles in the City of Mississauga; and the City's Licensing Administrative Penalty By-law 135-14 as amended (or its successor), being a by-law to establish a system of administrative penalties respecting licensing in the City of Mississauga; (0155-2015)

**"City"** means The Corporation of the City of Mississauga;

**"City Clerk"** means the City Clerk or the Director of Legislative Services of the City of Mississauga and their designate; (0185-2018)

**"Council"** means the elected Council of the City of Mississauga;

**"Hearing Officer"** means a person from time to time appointed by Council pursuant to this By-law, and is deemed to be a person who is not an employee of the City but who holds an administrative position of the City in accordance with section 258 of the *Municipal Act, 2001*;

**"Parent"** means a person who has demonstrated a settled intention to treat a child as a member of her or his family whether or not that person is the natural parent of the child;

**"Person"** includes a corporation, partnership or limited partnership;

**"Power of Decision"** means a power or right, conferred by or under this By-law and the Administrative Penalty By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any Person:

- (a) in the case of a Screening Officer, in respect of a request to review an Administrative Penalty; and
- (b) in the case of a Hearing Officer, in respect of an appeal from a Screening Decision.

**"Regulation"** means the Administrative Penalties regulation O. Reg. 333/07, as amended;

**"Relative"** includes any of the following persons:

- (a) Spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
- (b) Parent;

- (c) Child, including a step child and grandchild;
- (d) Siblings and children of siblings;
- (e) Aunt, uncle, niece and nephew;
- (f) In-laws, including mother, father, sister, brother, daughter and son; or
- (g) Any person who lives with the person on a permanent basis.

**"Screening Decision"** means a notice which contains the decision of a Screening Officer;

**"Screening Officer"** means a person from time to time appointed pursuant to this By-law; (0185-2018)

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

### **PART III - SCREENING OFFICER**

3. The position of Screening Officer is established for the purpose of exercising the Power of Decision in the review of an administrative penalty as set out in the City's Administrative Penalty By-law.
4. The Screening Officer shall have all of the powers of review as set out in the City's Administrative Penalty By-law and the Regulation.
5. A Screening Officer shall be appointed by the City Clerk in consultation with the City Solicitor, and preference shall be given to an eligible candidate; (0185-2018)
  - (a) with knowledge of and experience in administrative law; and
  - (b) of good character.

### **PART IV - HEARING OFFICER**

6. The position of the Hearing Officer is established for the purpose of exercising the Power of Decision in the appeal of a Screening Decision as set out in the City's Administrative Penalty By-law.
7. The Hearing Officer shall have all of the powers of review as set out in the City's Administrative Penalty By-law and the Administrative Penalties Regulation.
8. A Hearing Officer shall be appointed by Council on the recommendation of the City Clerk in consultation with the City Solicitor which recommendation shall give preference to an eligible candidate:
  - (a) with knowledge of and experience in administrative law: and
  - (b) of good character.

## **PART V - GENERAL PROVISIONS**

9. The following persons are not eligible for appointment as a Screening Officer or a Hearing Officer:
  - (a) a member of Council;
  - (b) the Relative of a person referenced in subsection 9(a);
  - (c) in the case of a Hearing Officer, an employee of the City; or
  - (d) 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.
10. A Screening Officer shall be appointed for such period and subject to such terms and conditions as may be determined by City staff in accordance with the City's employment or contract policies and guidelines.
11. A Hearing Officer shall hold office for the term of two years and thereafter until a Hearing Officer is reappointed or a successor is appointed pursuant to this By-law or is no longer required by the City.
12. A Hearing Officer shall be remunerated at the rate from time to time established by Council.
13. No Person shall attempt to directly or indirectly, communicate with or influence a Screening Officer or a Hearing Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Screening Officer or Hearing Officer except a person who is entitled to be heard in the proceeding or the person's lawyer or licensed representative and only by the person or the person's lawyer or licensed representative during the hearing of the proceeding in which the issue arises.
14. Section 13 does not prevent a Screening Officer or a Hearing Officer from seeking and receiving legal advice.
15. Every person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and the *Municipal Act, 2001*, as both may be amended from time to time.
16. This By-law shall come into force on June 1, 2014. (0024-2014)

ENACTED AND PASSED this 11<sup>th</sup> day of December, 2013.

Signed by Hazel McCallion, Mayor and Crystal Greer, City Clerk