

# THE CORPORATION OF THE TOWN OF RICHMOND HILL

## BY-LAW NO. 8-19

A by-law to amend various by-laws of the Town to extend the system administrative penalties established in By-law No. 69-16 to contraventions of non-parking by-laws

**WHEREAS** on September 12, 2016 pursuant to section 102.1(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Municipal Act, 2001") Council of the Corporation of the Town of Richmond Hill ("the Town") enacted by-law no. 69-19 (the "AMPS By-law") and by-law no. 70-16 (the "Screening and Hearing Officer Appointment By-law");

**AND WHEREAS** the AMPS by-law and the Screening and Hearing Officer Appointment By-law established a system of administrative penalties ("AMPS") for parking infractions occurring in contravention of the Town's by-law respecting the parking, standing or stopping of vehicles, being Chapter 1116 of the Town's Municipal Code and By-law No. 402-89, as amended (the "Parking Regulation By-law");

**AND WHEREAS**, as of January 1, 2017, pursuant to Section 434.1(1) of the *Municipal Act, 2001*, a municipality may establish an AMPS to promote compliance with any by-law passed pursuant to *the Municipal Act, 2001*;

**AND WHEREAS**, effective January 1, 2018, responsibility for the administration of the AMPS, as well as for enforcement of other Town by-laws, is that of the Commissioner of Community Services;

**AND WHEREAS** on February 11<sup>th</sup>, 2019, Council of the Town adopted the recommendations of the Committee of the Whole dated February 4<sup>th</sup>, 2019 to expand the AMPS for certain non-parking by-law as set out in Staff Report No. SRCS.19.01 and directed staff to bring forward this by-law to amend the various by-laws impacted by the expansion of the AMPS;

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF RICHMOND HILL ENACTS AS FOLLOWS:**

1. That By-law No. 69-16 (the "AMPS By-law") of the Corporation of the Town of Richmond Hill (the "Town"), be amended as follows:
  - (a) Article 2.0 titled "DEFINITIONS" shall be amended as follows:
    - (i) The definition of "AMPS" shall be deleted and replaced with the following:

"AMPS" means administrative monetary penalty system;
    - (ii) The definition of "Commissioner" shall be deleted and replaced with the following:

"Commissioner" means the person from time to time occupying the office of the Commissioner of Community Services of the Town, or such successor office as the case may be, and includes any

individual who has been authorized to temporarily act during that person's absence or a vacancy in the office;

(iii) The definition of "Owner" shall be deleted.

(iv) The following new definition shall be added in alphanumeric sequence:

"Parking Regulation By-law" means any by-law of the Town or of the Regional Municipality of York the respecting the parking, standing or stopping of vehicles that is a Designated By-law;

(v) The following new definition shall be added in alphanumeric sequence:

"Penalty Due Date" means a date which is the fifteenth (15<sup>th</sup>) day following the Penalty Notice Date;

(vi) The definition of "Person" shall be deleted be deleted and replaced with the following:

"Person" includes an individual or a business name, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof;

(vii) The definition of Screening Non-appearance Fee" shall be deleted and replaced with the following:

"Screening Non-appearance Fee" means an Administrative Fee established by Council from time to time and set out in the Tariff of Fees By-law in respect of a Person's failure to appear at the time and place scheduled for a Screening Review;

(b) Article 3.0 titled "APPLICATION OF THIS BY-LAW" shall be amended by:

(i) deleting and replacing Section 3.1 with the following:

The by-laws, or portions of by-laws, listed in the attached Schedule "A" and Schedule "B" of this By-law shall be Designated By-laws; and

(ii) Deleting Section 3.4 relating to the application of the Provincial Offences Act, R.S.O. 1990, c.P.33 to contraventions of Designated By-laws.

(c) Article 4.0 titled "PENALTY NOTICE" shall be amended as follows:

(i) Section 4.1 shall be deleted and replaced with the following:

An officer who has reason to believe that a Person has contravened any Designated By-law may issue a Penalty Notice as soon as reasonably practicable.

(ii) Section 4.2 shall be deleted and replaced with the following:

Every Person in contravention of a Designated By-law shall, upon issuance of a Penalty Notice, be liable to pay to the Town an

Administrative Penalty in the amount specified in Schedule “A” or Schedule “B” to this By-law, as applicable.

- (iii) Paragraph (a) of Section 4.3 shall be deleted and replaced with the following:

if applicable, the vehicle license plate number or vehicle identification number;

- (iv) Paragraph (d) of Section 4.3 shall be deleted and replaced with the following:

the Penalty Due Date;

- (v) Section 4.4 shall be deleted and replaced with the following:

In addition to the service methods provided for in Part 8, for a contravention pursuant to the a Parking Regulation By-law, an Officer may serve the Penalty Notice on a Person who is the deemed owner of a vehicle as set out in the Regulation by:

- (a) affixing it to the vehicle in a conspicuous place at the time of the contravention; or
- (b) delivering it personally to the Person having care and control of the vehicle at the time of the contravention.

- (vi) Section 4.6 shall be deleted and replaced with the following:

A Person who is served with a Penalty Notice and who does not pay the amount of the Administrative Penalty on or before the date on which the Administrative Penalty is due and payable, as set out on the Penalty Notice, shall also pay the Town any applicable Administrative Fee(s).

- (d) Article 5.0 titled “REVIEW BY SCREENING OFFICER” shall be amended as follows:

- (i) Section 5.1 shall be deleted and replaced by the following:

A Person who is served with a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer and shall do so on or before the Penalty Due Date, and in accordance with the process set out in Section 5.4.

- (ii) Section 5.2 shall be deleted and replaced by the following:

If a Person has not requested a Screening Review on or before the Penalty Due Date, the Person may request that the Screening Officer extend the time to request a Screening Review to a date

that is no later than forty-five (45) days after the Penalty Notice Date, in accordance with the process set out in Section 5.4.

- (iii) Section 5.9 shall be deleted and replaced by the following:

Where a notice of the scheduling of a time and place for a Screening Review has been served in accordance with Part 8 and a Person fails to attend at the time and place set out in such notice:

- (a) the Person shall be deemed to have abandoned the Request for Review by Screening Officer;
- (b) the Administrative Penalty as set out in the Penalty Notice shall be deemed to be confirmed on the sixteenth (16<sup>th</sup>) day following the Penalty Notice Date;
- (c) the Administrative Penalty shall not be subject to any further review, including a review by any Court; and,
- (d) the Person shall pay to the Town a Screening Non-appearance Fee, MTO Fee, if applicable, and any other applicable Administrative Fee(s).

- (iv) Section 5.10 shall be deleted and replaced by the following:

On review of an Administrative Penalty, the Screening Officer may decide to:

- (a) affirm the Administrative Penalty; or
- (b) cancel, reduce or extend the time for payment of the Administrative Penalty, including any Administrative Fee(s), on the following grounds if established by the Person on the balance of probabilities:
  - (i) the Person did not contravene the Designated By-law(s) as described in the Penalty Notice;
  - (ii) the existence of Mitigating or Extenuating Circumstances; or
  - (iii) the cancellation, reduction or extension of time for payment of the Administrative Penalty, including any Administrative Fee(s), is necessary to relieve any financial hardship.

- (v) Section 5.11 shall be deleted and the following section shall be renumbered sequentially.

- (vi) The reference in Section 5.12, renumbered as 5.11 in accordance with paragraph (v) above, to “Part 7” of the shall be deleted and replaced with a reference to “Part 8”.

- (e) Article 6.0 titled “REVIEW BY HEARING OFFICER” shall be amended as follows:

- (i) Section 6.2 shall be deleted and replaced by the following:

If a Person has not made a Request for Review by Hearing Officer during the Screening Review, the Person may make a Request for Review by Hearing Officer before the Penalty Due Date as set out

in the Penalty Notice or, if the Screening Officer extended the time for payment, on the Screening Decision.

- (ii) Section 6.6 shall be deleted and the replaced by the following:

Where a notice of the scheduling of a time and place for a Hearing has been served in accordance with Part 8 of this by-law and a Person fails to attend at the time and place set out in such notice:

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

- (iii) Subparagraph 6.7(b)(i) shall be deleted and replaced by the following:

where the Person establishes on the balance of probabilities that a contravention of the Designated By-law(s) as described in the Penalty Notice did not occur;

- (iv) The reference in Section 6.11 to “Part 7” of the shall be deleted and replaced with a reference to “Part 8”.

- (f) Article 7.0 titled “PROHIBITED COMMUNICATION AND UNDUE INFLUENCE” shall be amended by replacing the word “individual” in Section 7.1 with “Person”.

- (g) Article 9.0 titled “ADMINISTRATION” shall be amended as follows:

- (i) by deleting and replacing Section 9.5 with the following:

Where an Administrative Penalty for a contravention of a Parking Regulation By-law, and any applicable Administrative Fee(s) or Late Payment Fee(s), are not paid within thirty (30) Days after becoming due and payable, the Town may notify the Ministry of the default and the Ministry shall not validate the permit of the Person named in the notice of default nor issue a new permit to the Person until the Administrative Penalty any applicable Administrative Fee(s) and Late Payment Fee(s) are paid to the Town.

- (ii) by adding the following new section after Section 9.6 and renumbering the remaining sections that follow:

Without limiting Section 9.5 of this By-law, pursuant to subsection 434.2(2) of the Municipal Act, where an Administrative Penalty and any Administrative Fees remain unpaid within 15 days after the day they become payable, the Administrative Penalty, including any Administrative Fees shall be deemed to be unpaid taxes and the outstanding amount shall be added to the tax roll and collected in the same manner as municipal taxes

2. That By-law No. 70-16 (the “Screening and Hearing Officer Appointment By-law”) be amended by replacing the definition of “Commissioner” with the definition set out in paragraph (a) of Section 1 above.
3. That By-law No. 402-89 of the Town, being Chapter 1116 of the Municipal Code of the Town, as amended, be further amended by deleting the words “that

constitute an offence” from the definition of “parking infraction” and replacing them with the words “in contravention of this Chapter”

- 4. That By-law 146-08 of the Town, being a by-law to delegate certain functions related to appointment of individuals to enforce Town by-laws, be amended by replacing the definition of “Commissioner” with the definition set out in paragraph (a) of Section 1 above and that any references in any by-laws of the Town to the appointment of by-law enforcement officers, weed inspectors and property standards officers and/or to the appointment of individuals to enforce any Town by-laws pursuant to section 15 of the Police Services Act, R.S.O. 1990, c. P.15, be deemed to be references to the Commissioner as revised by this provision.
- 5. Except as herein provided and as required to give effect to the amendments in this By-law No. 8-19, the provisions of the by-laws amended herein continue in full force and effect without amendment.

PASSED THIS 11<sup>th</sup> DAY OF February, 2019.

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**Mayor**

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**Clerk**

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