



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2020-059

A by-law to amend the Litter By-law 2011-045 and Parks By-law 2013-013

WHEREAS the following Town of Oakville by-laws do not currently provide for a system of administrative penalties:

-) By-law 2011-045, Litter By-law
-) By-law 2013-013, Parks By-law

AND WHEREAS pursuant to section 434.1 of the *Municipal Act, 2001*, Council considers it desirable to provide for a system of administrative penalties as an additional means of encouraging compliance with Town by-laws;

AND WHEREAS administrative penalties constitute a debt to the municipality and if not paid within 15 days, it can be added to the tax roll and collected in the same manner as municipal taxes;

AND WHEREAS pursuant to Town of Oakville By-law 2014-114, Council has designated as Municipal Law Enforcement Officers, any Town employee whose responsibilities include the enforcement of a by-law, Act or regulation under an Act, while in the discharge of their duties;

AND WHEREAS on April 8, 2020, Council delegated authority to the Mayor during the COVID-19 Emergency pursuant to By-law 2020-057;

THEREFORE THE MAYOR ENACTS AS FOLLOWS:

Definitions

1. By-law 2011-045, a by-law to prohibit littering, is hereby amended as set out in Schedule "A" to this By-law.
2. By-law 2013-013, a by-law to prescribe rules and regulations for Parks within the Town of Oakville and to repeal By-law 1999-159, as amended, is hereby amended as set out in Schedule "B" to this By-law.

3. All other provisions of By-law 2011-045 and 2013-013 hereby remain in force and effect.

PASSED this 9th day of April, 2020.

Rob Burton

MAYOR

Vicki Tytaneck

CLERK

Schedule “A” to By-law 2020-059

1. Section 1 of By-law 2011-045 is hereby amended by adding the following definitions:

“Officer” means a Municipal Law Enforcement Officer, police officer or person hired by the Town to do work;

“Hearing Officer” means a person from time to time appointed by the Town Solicitor pursuant to the Screening and Hearing Officer By-law;

“Screening Officer” means a person from time to time appointed by the Town Solicitor pursuant to the Screening and Hearing Officer By-law;

2. By-law 2011-045 is hereby amended by adding a new section 2.1 to 2.23 as follows:

2.1 Any Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300.00.

2.2 An Officer who finds or has any reasonable cause to believe that a Person has contravened any provision of this By-law may issue a penalty notice addressed to the Person.

2.3 The penalty notice shall be given to the Person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:

- a. date of the penalty notice;
- b. the penalty notice number;
- c. particulars of the contravention;
- d. the amount of the administrative penalty;
- e. information respecting the process by which the Person may exercise the Person’s right to request a review of the administrative penalty; and
- f. a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the Person to the Town.

2.4 No Officer may accept payment of an administrative penalty.

2.5 Any Person who is served a penalty notice may request a review by a

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- Screening Officer within 15 days after the penalty notice date.
- 2.6 Any Person may request that the Screening Officer extend the time to request a review within 45 days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
- 2.7 The Screening Officer may extend the time to request a review of the administrative penalty when the Person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
- 2.8 On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
- a. where the Person establishes, on a balance of probabilities that the Person did not commit the act as described in the penalty notice; or
 - b. the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
- 2.9 Every Person who has a review by the Screening Officer shall receive a screening decision.
- 2.10 Where the Person fails to appear/participate at the time and place scheduled for a review of the screening decision:
- a. the Person shall be deemed to have abandoned the review;
 - b. the administrative penalty shall be deemed to be affirmed;
 - c. the administrative penalty shall not be subject to review; and
 - d. the Person shall pay the applicable fee.
- 2.11 Any Person who has received a screening decision may request a review of the screening decision by a Hearing Officer within 15 days after the screening decision was issued.
- 2.12 Any Person may request that the Hearing Officer extend the time to request a review within 45 days after the screening decision was issued, at which time the screening decision shall be deemed to be affirmed.
- 2.13 The Hearing Officer may extend the time to request a review of the screening decision when the Person requesting the extension demonstrates

extenuating circumstances that warrant the extension of time.

- 2.14 The Person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- 2.15 On a review of the screening decision, the Hearing Officer may affirm the screening decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:
 - a. where the Person establishes, on a balance of probabilities that the Person did not commit the act as described in the penalty notice; or
 - b. the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- 2.16 Where a Person fails to request a review of the screening decision or extension of time before the Hearing Officer in accordance with this By-law:
 - a. the Person shall be deemed to have waived the right to a hearing;
 - b. the screening decision and the administrative penalty shall be deemed to be affirmed; and
 - c. the screening decision and the administrative penalty shall not be subject to any further review.
- 2.17 Where a Person fails to appear/participate 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 and administrative penalty shall be deemed to be affirmed;
 - c. the screening decision and administrative penalty and associated fees shall not be the subject of any further review; and
 - d. the Person shall pay to the Town a fee in the amount of \$100.00.
- 2.18 Where an administrative penalty and any applicable administrative fees are not paid within 15 days after the date that it becomes due and payable, each Person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of \$50.00.
- 2.19 A Hearing Officer shall not make any decision respecting a review of the screening decision unless the Hearing Officer has given the Person and the

Town an opportunity to be heard.

- 2.20 The decision of a Hearing Officer shall be final and is not subject to appeal or further review.
- 2.21 The Screening Officer and the Hearing Officer have no 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.
- 2.22 Any penalty notice pursuant to this By-law may be given in writing in any of the following ways and is effective:
- a. on the date on which a copy is delivered to the Person to whom it is addressed;
 - b. on the fifth (5th) day after a copy is sent by mail to the Person's last known address;
 - c. upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
 - d. upon the sending of a copy by e-mail transmission to the Person's last known e-mail address.
- 2.23 The Person's last known address, last known facsimile transmission number and last known e-mail address shall be deemed to include those provided in any business licensing application.

Schedule “B” to By-law 2020-59

1. Section 1 of By-law 2013-013 is hereby amended by adding the following definitions:
 - (d.1) “Hearing Officer” means a person from time to time appointed by the Town Solicitor pursuant to the Screening and Hearing Officer By-law;
 - (i.1) “Person” or any expression referring to a person, means an individual of any age;
 - (j.1) “Screening Officer” means a person from time to time appointed by the Town Solicitor pursuant to the Screening and Hearing Officer By-law;
2. By-law 2013-013 is hereby amended by adding a new section 19.1 to 19.23 as follows:
 - 19.1 Any Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice be liable to pay to the Town an administrative penalty in the amount of \$300.00.
 - 19.2 An enforcement officer who finds or has any reasonable cause to believe that a Person has contravened any provision of this By-law may issue a penalty notice addressed to the Person.
 - 19.3 The penalty notice shall be given to the Person to whom or to which it is addressed as soon as is reasonably practicable and shall include the following information:
 - a. date of the penalty notice;
 - b. the penalty notice number;
 - c. particulars of the contravention;
 - d. the amount of the administrative penalty;
 - e. information respecting the process by which the Person may exercise the Person’s right to request a review of the administrative penalty; and
 - f. a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the Person to the Town.
 - 19.4 No enforcement officer may accept payment of an administrative penalty.

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- 19.5 Any Person who is served a penalty notice may request a review by a Screening Officer within 15 days after the penalty notice date.
 - 19.6 Any Person may request that the Screening Officer extend the time to request a review within 45 days after the penalty notice date, failing which, the administrative penalty shall be deemed to be affirmed.
 - 19.7 The Screening Officer may extend the time to request a review of the administrative penalty when the Person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.
 - 19.8 On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
 - a. where the Person establishes, on a balance of probabilities that the Person did not commit the act as described in the penalty notice; or
 - b. the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce hardship.
 - 19.9 Every Person who has a review by the Screening Officer shall receive a screening decision.
 - 19.10 Where the Person fails to appear/participate at the time and place scheduled for a review of the screening decision:
 - a. the Person shall be deemed to have abandoned the review;
 - b. the administrative penalty shall be deemed to be affirmed;
 - c. the administrative penalty shall not be subject to review; and
 - d. the Person shall pay the applicable fee.
 - 19.11 Any Person who has received a screening decision may request a review of the screening decision by a Hearing Officer within 15 days after the screening decision was issued.
 - 19.12 Any Person may request that the Hearing Officer extend the time to request a review within 45 days after the screening decision was issued, at which time the screening decision shall be deemed to be affirmed.
 - 19.13 The Hearing Officer may extend the time to request a review of the screening decision when the Person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.

- 19.14 The Person shall be issued or served notice of the date, time and place of the review by the Hearing Officer.
- 19.15 On a review of the screening decision, the Hearing Officer may affirm the screening decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:
- a. where the Person establishes, on a balance of probabilities that the Person did not commit the act as described in the penalty notice; or
 - b. the cancellation, reduction or extension of the time for payment of the administrative penalty, including additional administrative fees, is necessary to reduce hardship.
- 19.16 Where a Person fails to request a review of the screening decision or extension of time before the Hearing Officer in accordance with this By-law:
- a. the Person shall be deemed to have waived the right to a hearing;
 - b. the screening decision and the administrative penalty shall be deemed to be affirmed; and
 - c. the screening decision and the administrative penalty shall not be subject to any further review.
- 19.17 Where a Person fails to appear/participate 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 and administrative penalty shall be deemed to be affirmed;
 - c. the screening decision and administrative penalty and associated fees shall not be the subject of any further review; and
 - d. the Person shall pay to the Town a fee in the amount of \$100.00.
- 19.18 Where an administrative penalty and any applicable administrative fees are not paid within 15 days after the date that it becomes due and payable, each Person to whom the penalty notice was issued or served shall pay to the Town a fee in the amount of \$50.00.
- 19.19 A Hearing Officer shall not make any decision respecting a review of the screening decision unless the Hearing Officer has given the Person and the Town an opportunity to be heard.
- 19.20 The decision of a Hearing Officer shall be final and is not subject to appeal or

further review.

19.21 The Screening Officer and the Hearing Officer have no 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.

19.22 Any penalty notice pursuant to this By-law may be given in writing in any of the following ways and is effective:

- a. on the date on which a copy is delivered to the Person to whom it is addressed;
- b. on the fifth (5th) day after a copy is sent by mail to the Person's last known address;
- c. upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
- d. upon the sending of a copy by e-mail transmission to the Person's last known e-mail address.

19.23 The Person's last known address, last known facsimile transmission number and last known e-mail address shall be deemed to include those provided in any business licensing application.