

**THE CORPORATION OF THE TOWN OF WASAGA BEACH**

**BY-LAW 2024-48**

**Appointment of Screening and Hearing Officers to Implement AMPS**

**WHEREAS** Sections 102.1 and 434.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “Municipal Act”) 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** Section 15.4.1 of the *Building Code Act, 1992*, S.O. 1992, c. 23 (the “Building Code Act”) authorizes municipalities to require a person, subject to such conditions as a municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with the municipal property standards by-law, or an order pursuant to such by-law;

**AND WHEREAS** the Town has passed an Administrative Monetary Penalty System (“AMPS”) By-law;

**AND WHEREAS** a person who receives a penalty notice has the right to request a screening review of the administrative penalty by a screening officer appointed by the Town;

**AND WHEREAS** a person who receives a screening decision shall have the right to request a review of the decision by a hearing officer appointed by the Town;

**AND WHEREAS** the Council of The Corporation of the Town of Wasaga Beach deems it desirable and necessary to establish the positions of screening officer and hearing officer for the operation of the Town’s AMPS By-law;

**AND WHEREAS** Council has deemed that certain routine administrative and legislative powers are minor in nature, and the delegation of these powers would contribute to the efficient management of the Town while still adhering to the principles of accountability and transparency;

**NOW THEREFORE** the Council of the Corporation of the Town of Wasaga Beach enacts as follows:

**1. Scope**

1.1 This by-law applies to all lands within the Town of Wasaga Beach.

## 2. **Short Title**

2.1 This By-law may be referred to as the “Screening and Hearing Officer By-law”

## 3. **Definitions**

3.1 All words used in this by-law shall be interpreted as defined in this by-law. Where definitions are not provided herein, the words shall be defined as provided firstly in the most current editions of the Building Code Act, the Ontario Building Code, the Highway Traffic Act, and the Municipal Act. Finally, any remaining words shall be defined in the Dictionary in the context of the by-law application.

3.2 In this By-law:

1. **Administrative Penalty** means an administrative penalty imposed for a contravention of a Designated By-law as set out in the AMPS By-law;
2. **AMPS By-law** means the Town’s Administrative Monetary Penalties By-law, as may be amended from time to time;
3. **CAO** means the Chief Administrative Officer of the Town or his/her designate;
4. **Council** means the Council of the Town of Wasaga Beach;
5. **Designated By-law** means a Town by-law, or a part or provision of a Town by-law, to which the AMPS By-law applies;
6. **Director** means the General Manager of Development Services, or his/her designate or successor;
7. **Hearing Officer** means any person appointed from time to time pursuant to this by-law to perform the functions of a hearing officer in accordance with this by-law and the AMPS By-law;
8. **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;
9. **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;

10. **Policy for Appointment of Screening and Hearing Officers** means the policy of the Town for the appointment of screening and hearing officers, as amended from time to time, or any successor thereof;
11. **Power of Decision** means a power or right, conferred by or under this by-law and the AMPS By-law, to make a decision determining 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 a review of a Screening Decision;
12. **Regulation** means O. Reg. 333/07, made under the *Municipal Act, 2001*, as amended from time to time, or any successor thereof;
13. **Relative** includes any of the following persons:
  - a) Spouse;
  - b) Parent or legal guardian;
  - c) Child, including a stepchild 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
14. **Screening Decision** means the notice containing the decision of a Screening Officer;
15. **Screening Officer** means any person appointed by the Town from time to time pursuant to this by-law, to perform the functions of a screening officer pursuant to this by-law and the AMPS by-law;
16. **Spouse** means a Person to whom the Person is married, a common-law partner, and/or a Person with whom the Person is living in a conjugal relationship outside marriage and may consist of more than one Person;
17. **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; and

18. **Town** means the Corporation of the Town of Wasaga Beach and/or the geographical limits of the Town of Wasaga Beach, depending on the context of the provision in which the term appears.

#### **4. Screening Officer**

- 4.1 The position of Screening Officer is established for the purpose of exercising the Power of Decision in the review of an Administrative Penalty by a Screening Officer, as set out in the AMPS By-law.
- 4.2 The Screening Officer shall have all the powers of a Screening Officer as set out in the AMPS By-law and, with respect to any matters subject to any Designated By-law.
- 4.3 Screening Officer(s) shall be appointed by the Director, in accordance with the Policy for Appointment of Screening and Hearing Officers.

#### **5. Hearing Officer**

- 5.1 The position of Hearing Officer is established for the purpose of exercising the Power of Decision in a review of a Screening Decision, as set out in the AMPS By-law.
- 5.2 The Hearing Officer shall have all the powers of a Hearing Officer as set out in the AMPS by-law and, with respect to any matters subject to a Designated By-law.
- 5.3 Hearing Officer(s) shall be appointed by the Director, in accordance with the Policy for Appointment of Screening and Hearing Officers. In the selection of Hearing Officer(s) for appointment, preference shall be given to eligible candidates:
- (a) with good knowledge of, and experience in, administrative law; and
  - (b) of good character.
- 5.4 Hearing Officers shall be appointed for the term of Council, and thereafter until the Hearing Officer is reappointed or a successor is appointed pursuant

to this by-law or is no longer required by the Town.

5.5 Notwithstanding Subsection 4.4, the Director may revoke the appointment of a Hearing Officer at any time, if the Hearing Officer:

(a) is found to have contravened any applicable Town policy relating to the administration of the AMPS system;

(b) is found to have contravened any other requirement of the appointment; or

(c) at any time during the appointment becomes ineligible for appointment.

5.6 A Hearing Officer shall be remunerated at a rate as established by the Director from time to time.

5.7 A Hearing Officer is deemed not to be an employee of the Town.

## **6. Eligibility**

6.1 The following persons are not eligible for appointment as a Screening Officer or a Hearing Officer:

(a) a member of Council;

(b) a Relative of a member of Council;

(c) a Person indebted to the Town, other than in respect of current property taxes; or pursuant to an agreement with the Town, where the person is in compliance with the terms thereof.

6.2 In addition to the above, Town employees are not eligible for appointment as a Hearing Officer.

## **7. General**

7.1 A Screening Officer or a Hearing Officer shall have no authority to further delegate his/her powers or duties.

7.2 Neither a Screening Officer nor a Hearing Officer has 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.

- 7.3 The Statutory Powers Procedure Act applies to a review by a Hearing Officer.
- 7.4 The decision of a Hearing Officer is final.
- 7.5 The Director shall administer this by-law and is delegated the power to prescribe all forms, notices, guidelines, practices, processes and procedures, necessary to implement this by-law and the AMPS By-law, and to amend the same from time to time as the Director deems necessary.
- 7.6 The Director is delegated the power to establish and implement any policies necessary to implement this by-law and the administrative penalty system, including without limitation the Policy for Appointment of Screening and Hearing Officers, and may amend the same from time to time, as the Director deems necessary.
- 7.7 The Director is delegated the power to appoint, suspend the appointment of and revoke appointments of any Screening Officer and Hearing Officer, in accordance with the Policy for Appointment of Screening and Hearing Officers, and any other applicable policies, by-laws and legislation.
- 7.8 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.

## **8 Interpretation**

- 8.1 Nothing in this by-law prevents a Screening Officer or a Hearing Officer from seeking or receiving legal advice.
- 8.2 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.
- 8.3 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.
- 8.4 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.

8.5 This by-law shall be read with all changes in gender or number as the context requires.

8.6 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

8.7 The words "include", "includes", "including" are not to be read or interpreted as limiting the words, phrases, or descriptions that precede it.

8.8 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.

## **9 Delegation**

9.1 The Director is authorized to make minor housekeeping amendments to this by-law that do not alter the meaning or intent in any way.

## **10 Effective Date**

10.1 This by-law shall come into force and effect upon passing.

**Enacted by Town of Wasaga Beach Council this 13th day of June, 2024.**

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Nicole Rubli,  
Director of Legislative  
Services & Clerk

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Brian Smith  
Mayor