THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____- 2024

To establish and implement an Administrative Penalty System for Contraventions Detected Using Camera Systems

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WHEREAS Section 11 of the *Municipal Act, 2001,* S.O. 2001, c. 25 ("*Municipal Act, 2001")*, authorizes municipalities to enact by-laws respecting highways, including traffic on highways;

AND WHEREAS Section 21.1 of the *Highway Traffic Act,* R.S.O. 1990, c. H.8, as amended ("HTA*")* authorizes municipalities to establish an administrative penalty system to promote compliance with the *Highway Traffic Act* and its regulations;

AND WHEREAS Section 205.1 of the *Highway Traffic Act* authorizes a municipality to use an automated speed enforcement system in a community safety zone designated by by-law passed under Subsection 214.1 (1) of the *Highway Traffic Act* where the prescribed rate of speed is less than 80 kilometres per hour; or in a school zone designated by by-law passed under clause 128 (5) (a) of the *Highway Traffic Act*;

AND WHEREAS Section 205.15 of the *Highway Traffic Act* authorizes a municipality to use a photograph obtained through the use of a red light camera system as evidence in relation to an offence under Subsection 144(18) of the *Highway Traffic Act;*

AND WHEREAS O. Reg. 355/22 enacted under the *Highway Traffic Act* ("O.Reg. 355/22") authorizes municipalities to impose Administrative Penalties for vehicle-based contraventions detected using camera systems;

AND WHEREAS O. Reg. 355/22 authorizes municipalities to pass by-laws imposing fees or charges under section 391 of the *Municipal Act, 2001* in respect of services related to an administrative penalty imposed under section 21.1 of the *Highway Traffic Act;*

AND WHEREAS the purpose of the Administrative Penalty System is to promote compliance with the *Highway Traffic Act* and its regulations;

AND WHEREAS the Council of The Corporation of the City of Brampton considers it desirable to provide for a system of administrative penalties and administrative fees for designated sections of the *Highway Traffic Act*;

NOW THEREFORE Council of The Corporation of the City of Brampton hereby enacts as follows:

PART 1 – SHORTTITLE

1. This By-law may be referred to as the "Administrative Penalty By-law for Contraventions Detected Using Camera Systems".

PART II - DEFINITIONS

2. In this By-law:

"Administrative Penalty" means a monetary penalty as set out and calculated in accordance with Section 6 of O. Reg 355/22;

"By-law" means this by-law and any schedule to this by-law as they may be amended from time to time;

"City" means The Corporation of the City of Brampton;

"Commissioner" means the Commissioner of Legislative Services or their designate;

"Council" means the Council for The Corporation of the City of Brampton;

"Decision of a Hearing Officer" means a written notice that contains the decision of a Hearing Officer;

"Deemed Date of Service" means the seventh (7^{th}) day following the day the Penalty Order was mailed or couriered;

"Hearing Officer" means a person appointed by Council from time to time to conduct Reviews;

"HTA" means the *Highway Traffic Act,* R.S.O. 1990, c. H.8;

"Holiday" means a Saturday, Sunday, any statutory holiday in the Province of Ontario or any day the offices for the City are officially closed for business;

"Late Payment Fee" means an administrative fee set out in Schedule "A" to this By-law in respect of an Owner's failure to pay an Administrative Penalty within the time prescribed in this By-law;

"MTO" means the Ministry of Transportation for Ontario;

"MTO Plate Denial Fee" means an administrative fee set out in Schedule "A" to this By-law in respect of notifying the Registrar of Motor Vehicles for the purpose of plate permit denial;

"MTO Search Fee" means an administrative fee set out in Schedule "A" to this By-law in respect of searching the records of the MTO;

"Non-Appearance Fee" means an administrative fee set out in Schedule "A" to this By-law in respect of a failure to appear at the time and place scheduled for a Review;

"Officer" means a person employed by the City and designated as a Provincial Offences Officer by MTO under subsection 1(3) of the *Provincial Offences Act* and section 4 of the *Highway Traffic Act;*

"O.Reg. 355/22" means Ontario Regulation 355/22 under the HTA and any amendments or successor legislation;

"Owner", in relation to a motor vehicle, has the same meaning as set out in O. Reg. 355/22;

"Penalty Order" means an order made under Subsection 21.1(2) of the HTA and O.Reg. 355/22;

"Prescribed Provision" means a section prescribed in Subsection 21.1(2) of the HTA for contraventions detected using camera systems;

"Review" means an appeal of a Penalty Order to a Screening Officer or an appeal from a Screening Decision to a Hearing Officer;

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

"Screening Officer" means a person employed by the City to review administrative penalties described in Section 2 of O. Reg. 333/07 (Administrative Penalties) made under the *Municipal Act, 2001* and a person employed by the City to review Penalty Orders made under Subsection 21.1(2) of the HTA and O.Reg. 355/22 as the case may be;

"SPPA" means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended from time to time, or any successor thereof.

PART III - APPLICATION OF THIS BY-LAW

3. The provisions of the HTA that are prescribed under Section 2 of O.Reg. 355/22 apply to this By-law.

4. The Administrative Penalty amounts for contraventions of the Prescribed Provisions are set out in Section 6 of O. Reg. 355/22 and any amendments or successor legislation thereto.
5. Schedule "A" of this By-law sets out the administrative fees that may be imposed under this By-law in accordance with O. Reg. 355/22.

PART IV - PENALTY ORDER

6. An Officer who is satisfied that an Owner has contravened a Prescribed Provision may issue a Penalty Order in accordance with this By-law.

7. Every Owner who contravenes a Prescribed Provision shall, when given a Penalty Order, be liable to pay the Administrative Penalty plus any administrative fees and victim justice fund amount set out in the Penalty Order within thirty (30) days of the Deemed Date of Service.

8. The Penalty Order shall be in a form approved by the Commissioner, and shall include the following information:

   (1) A unique identifier number approved by MTO.

   (2) The provision contravened.

   (3) The date and location of the contravention.

   (4) An identification of the motor vehicle that is involved in the contravention.

   (5) The amount of the Administrative Penalty determined in accordance with Section 6 of O. Reg. 355/22.

(6) A statement that the Owner must, no later than thirty (30) days after the Deemed Date of Service, pay the Administrative Penalty unless they request a Review of the Penalty Order in accordance with O. Reg. 355/22.

(7) A statement that the Owner may, no later than thirty (30) days after the Deemed Date of Service, request a Review of the Penalty Order in accordance with O. Reg. 355/22.

(8) Information regarding the Review process including the manner in which to commence a Review.

(9) A copy of a photograph or image of the motor vehicle involved in the contravention.

(10) A statement by the Officer that the information contained within the Penalty Order is certified to be true in respect of the contravention.

9. A Penalty Order must be issued within the period that ends twenty-three (23) days after the day on which the contravention occurred.

PART V - REVIEW OF PENALTY ORDER

10. An Owner who is served a Penalty Order may, within thirty (30) days after the Deemed Date of Service, request a Review of the Penalty Order by a Screening Officer in accordance with O. Reg. 355/22.

11. A Screening Officer does not have 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.

12. The process by which an Owner may request a Review by a Screening Officer shall be set out in standard operating procedures, as approved by the Commissioner.

PART VI - REVIEW BY HEARING OFFICER

13. An Owner may request a Review of the Screening Officer's Decision within thirty (30) days of the date of the issuance of the Screening Decision in accordance with O. Reg. 355/22.

14. A Hearing Officer does not have 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.

15. The process by which an Owner may request a Review by a Hearing Officer shall be set out in standard operating procedures, as approved by the Commissioner.

16. A Hearing Officer may consider a request for consideration of undue hardship because of ability to pay an Administrative Penalty in accordance with standard operating procedures approved by the Commissioner.

PART VII - SERVICE OF DOCUMENTS

17. Service of a Penalty Order is deemed effective in any of the following ways:

(1) A penalty order may be served on the person who is subject to the order by sending the order by mail or by courier to the most recent address that appears on the Ministry's records in respect of the holder of the plate portion of the permit for the motor vehicle involved in the contravention.

(2) If the authorized person who imposed the penalty order believes that the person who is subject to the order resides outside Ontario or, in the case of a corporation has its principal place of business outside Ontario, the penalty order may be served on the person by sending the order by mail or by courier to the address outside Ontario at which the authorized person believes the person resides or has its principal place of business.

(3) The address mentioned in subsection (2) may be determined from a document obtained from the government of any province or territory of Canada or from the government of a state of the United States of America, or from a person or entity authorized by any such government to keep records of vehicle permits, number plates or other evidence of vehicle ownership in that jurisdiction.

(4) Service of a penalty order mailed or couriered in accordance with this section is deemed to be served on the seventh (7^{th}) day following the day on which it was mailed or couriered.

PART VIII - ADMINISTRATION

18. The Commissioner and/or their designate shall administer this By-law.

19. The Commissioner may prescribe all forms, notices, including the Penalty Order, guidelines, processes, policies, and procedures, necessary to implement the By-law and the Administrative Penalty system, and to amend such forms, notices, guidelines, procedures, and processes from time to time as the Commissioner deems necessary.

20. Where a standard operating procedure conflicts with O. Reg. 355/22, the regulation shall prevail.

PART IX - GENERAL PROVISIONS

21. A Penalty Order that is paid prior to a Screening Review shall be deemed as final and will not be subject to screening or refund.

22. Unless otherwise stated in this By-law, an Administrative Penalty is due and payable within thirty (30) calendar days following the Deemed Date of Service.

23. Where an Administrative Penalty is subject to a decision made by a Screening Officer or a Hearing Officer, the Administrative Penalty and any administrative fees and victim fund amount shall be due and payable on the date specified in the Screening Decision or Hearing Decision, as the case may be.

24. Where an Administrative Penalty, including any administrative fees set out in Schedule “A” to this By-law and victim fund amount set out in O. Reg. 355/22 is not paid within thirty (30) calendar days after it has become due and payable, the City may:

(1) notify the Registrar of Motor Vehicles of the default and the Registrar shall not validate the permit of a person named in the default notice nor issue a new permit to that person, in respect of the vehicle to which the Administrative Penalty and administrative fees apply, until the penalty is paid, and the Owner of the vehicle in respect of which the Penalty Order was issued shall, in addition to any other fees, pay a Plate Denial Fee; or

(2) pursue any other collection mechanisms available to the City pursuant to the Regulation or at law.

25. Where an Administrative Penalty issued is not paid within thirty (30) calendar days after it becomes due and payable, the Owner of the motor vehicle in respect of which the Penalty Order was issued shall pay to the City, in addition to any other fees, a Late Fee as set out in Schedule “A” to this By-law.

26. Where an Administrative Penalty is not paid within thirty (30) days after it becomes due and payable in accordance with a Screening Decision or Hearing Decision, the Owner of the motor vehicle in respect of which the Penalty Order was issued shall pay to the City, in addition to any other fees, a Late Fee as set out in Schedule “A” to this By-law.

27. Where a person provides a method of payment to the City for payment of any Administrative Penalty or administrative fee, which has insufficient funds available in the account on which the instrument was drawn, the Owner shall, in addition to any other fees, be liable to pay to the City an NSF Fee as set out in By-law 380-2003, as amended (User Fees).

28. Where a person makes a request for an extension of time for payment, and the request is granted, the date on which the Administrative Penalty is due and payable shall be the date established in accordance with the extension of time, and:

    (1) the Penalty Order will not be subject to the Late Payment Fee, until the time for payment has expired, and then in accordance with the provisions herein; and

    (2) the enforcement mechanisms available to the City shall be suspended until the extension of time has expired, and then shall apply in accordance with the provisions herein.

29. Where an Administrative Penalty is cancelled by a Screening Officer or a Hearing Officer, any administrative fee is also cancelled.

30. No Officer, Screening Officer or Hearing Officer may accept payment in respect of an Administrative Penalty or administrative fee.

31. Payments of an Administrative Penalty or administrative fee must be received by the date on which they are due and payable, or any extended due date in accordance with this By-law and will not be credited until received by the City.

32. Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.

34. An authorized representative is permitted to appear on behalf of an Owner at a Review or to communicate with the City of Brampton.

35. Any person claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the Hearing Officer in accordance with standard operating procedures established by the Commissioner.

PART X - SEVERABILITY

36. 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, shall 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.

PART XI - OFFENCES

37. Any person or Owner who:

    (1) Makes a false, misleading, or fraudulent statement in relation to a Penalty Order, or on any form submitted to the City in relation to a Penalty Order; or

    (2) Obstructs an Officer, Screening Officer or Hearing Officer exercising any authority under this By-law,

    is guilty of an offence and, upon conviction, is subject to a penalty in accordance with the *Provincial Offences Act.*

38. No person shall attempt, directly or indirectly, to communicate with a Screening Officer or Hearing Officer for the purpose of influencing or interfering, financially, politically, or otherwise with, the Screening Officer or Hearing Officer respecting a Penalty Order in a proceeding that is or will be pending before a Screening Officer or Hearing Officer, except an Owner who is entitled to be heard in the proceeding or the person's licensed representative or authorized representative.

PART XII – SCHEDULES

39. Any schedules attached to this By-law form part of this By-law.

PART XII - EFFECTIVE DATE

40. This By-law shall come into force and effect upon the date it is finally passed.

ENACTED and PASSED this 29th day of May, 2024.

Approved as to form.
2024/05/13
Colleen Grant

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Patrick Brown, Mayor

Approved as to content.
2024/15/13
Colleen Grant

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Charlotte Gravlev, Acting City Clerk