



**SUBJECT: By-law updates to establish positions and appoint
Hearing and Screening Officers**

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Transportation Services Department

Report Number: TS-02-20

Wards Affected: All

File Numbers: 110-04-1

Date to Committee: February 11, 2020

Date to Council: February 24, 2020

Recommendation:

Repeal Screening and Hearing Officer By-law 40-2018; and

Approve the enactment of a by-law to establish and appoint positions of Screening Officer and Hearing Officer in the City of Burlington, attached as Appendix A to transportation services department report TS-02-20, in a form satisfactory to the City Solicitor, as its replacement.

PURPOSE:

To appoint new Hearing Officers and to streamline the process for the appointment of Screening Officers who exercise a power of decision under the City of Burlington Administrative Penalty System (By-law 40-2016) by delegating their appointment to the City Manager.

Vision to Focus Alignment:

- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

Provincial Requirement for Screening and Hearing Officers

Since July 2012, the City of Burlington has been operating an Administrative Penalty System (“APS”) for parking infractions in accordance with authority provided under Ontario Administrative Penalties Regulation 333/07 made under *Municipal Act*, 2001 (the “Regulation”). The Regulation provides a two-step process for those wishing to dispute a parking ticket:

Step 1 is a review by a Screening Officer who can vary, amend or cancel the parking ticket.

Step 2 is a final and binding appeal to a Hearing Officer should the ticket recipient be unsatisfied with the Screening Officer’s decision.

Screening Officers can be employees of the City while Hearing Officers, though appointed by Council, must be independent of the City. Screening and Hearing Officers in the City of Burlington are appointed pursuant to an appointment By-law (currently under By-law 40-2018 which is sought to be repealed and replaced in the recommendation made in this Report).

Review of Current Hiring Processes

The City of Burlington currently has issues with staff turnover in both the Screening and Hearing Officer positions which affects its ability to operate the Administrative Penalty System. An internal review of current hiring practices and policies resulted in the following issues being identified:

1. Process to hire Screening Officers is longer than required due to wording in the current appointment By-law 40-2018. The Screening and Hearing Officer Appointment By-law 40-2018 currently in place, appoints and names each Screening Officer in the schedule to the By-law, requiring a report to Committee and Council and amendments to the By-law for any changes to the appointments. This increases the time it takes to get through the hiring and appointment process. The Administrative Penalties Regulation does not require the Screening Officer appointment to be done via by-law.
2. Eligibility criteria for the hiring of Hearing Officers needs to be updated for clarity to ensure integrity of the system. Compliance with the policies and regulations relating to the Administrative Penalty System require that Hearing Officers be and appear to be impartial at all times and not related to the City operations. Current or previous employees of the Transportation Services Department should not be eligible for hire for the position of Hearing Officers to avoid any perception of bias in favour of the City and to ensure this requirement is met.

The ineligibility for the position of Hearing Officers to current and former City staff has been included in the proposed new appointment by-law.

3. *Fees paid to Hearing Officers are not in line with comparable municipalities.*
Based on a review of five other municipalities (Hamilton, Oshawa, Vaughan, Brampton, Mississauga), the average rate of pay for Hearing Officers is \$500 per day. Burlington currently pays \$100 per day which is likely contributing to the turnover.

Recommended Improvements

To remedy the above noted issues, the following is recommended:

1. Update wording in the relative by-laws and policies to allow for an internal appointment of Screening Officers via the City Manager or designate. This will allow approved candidates to start immediately after hiring without the need to amend the existing appointment by-law. Screening Officers are City employees and will be vetted in accordance with existing policies. The proposed new appointment by-law, attached as Appendix A to of Transportation Services Department Report TS-02-20, delegates the authority to appoint screening officers to the City Manager or designate.
2. Update all relevant by-laws and policies to explicitly indicate who can qualify for Hearing and Screening positions to avoid real or perceived appearance of bias in favour of the City. The proposed new appointment by-law, attached as Appendix A to the Transportation Services Department Report TS-02-20, clearly sets out the eligibility criteria for Hearing and Screening Officers.
3. Increase the amount paid to Hearing Officers from \$100 to \$500 to align with other municipalities.

Financial Matters:

Total Financial Impact

Current Budget increase of \$4,800 (additional \$400 per Hearing x 12 Hearings per year).

Source of Funding

Payment for Hearing Officers are offset by the administrative penalty fees collected through parking tickets as approved in the City's Rates and Fees By-law 52-2019.

Climate Implications

Not applicable.

Enterprise Risk:

The City is required to appoint Screening and Hearing Officers as part of the appeal process legislated in Ontario Regulation 333/07.

Conclusion:

The recommended by-law changes will improve hiring efficiency and ensure the City's Administrative Penalty System complies with Provincial Regulations applicable to Administrative Penalties.

Respectfully submitted,

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Appendices:

- A. Draft By-law to establish and appoint positions of Screening Officer and Hearing Officer.

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council. Final approval is by the City Manager.