

The Corporation of the City of Burlington

City of Burlington By-law XX-2020

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

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") authorize The Corporation of the City of Burlington to pass by-laws necessary or desirable for municipal purposes;

AND WHEREAS subsection 102.1(1) of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person failed to comply with any by-laws respecting the parking, standing or stopping of vehicles;

AND WHEREAS the Province adopted the Administrative Penalties Regulation O. Reg. 333/07 pursuant to the *Municipal Act, 2001* which applies to administrative penalties in respect of the parking, standing or stopping of vehicles;

AND WHEREAS under the Administrative Penalties Regulation a person who receives a Penalty Notice shall have the right to request a review of the administrative penalty by a Screening Officer appointed by the municipality;

AND WHEREAS under the Administrative Penalties Regulation, a person who receives notice of a decision from a Screening Officer shall have the right to a review of the Screening Officer's decision by a Hearing Officer appointed by the municipality;

AND WHEREAS section 425 of the *Municipal Act, 2001* authorizes The Corporation of the City of Burlington to pass by-laws providing that a person who contravenes a by-law of the City of Burlington passed under that Act is guilty of an offence;

AND WHEREAS the City of Burlington passed the Administrative Penalty By-law 40-2016, being a by-law to establish a system of administrative penalties respecting the stopping, standing or parking of vehicles in the City; and

AND WHEREAS the City of Burlington considers it desirable and necessary to establish the position of a Screening Officer and a Hearing Officer who may be delegated quasi-judicial and other authority under various City By-laws and which are required for the operation of the City's Administrative Penalty By-law;

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

PART 1 - DEFINITIONS

1. In this By-law:

“Administrative Penalty” means a monetary penalty imposed for a contravention of a Designated By-law as set out in the Administrative Penalty By-law;

“Administrative Penalty By-law” means the City’s Administrative Penalty By-law 40-2016, as amended or replaced from time to time, being a by-law to establish a system of administrative penalties respecting the stopping, standing or parking of vehicles in the City;

“City” means The Corporation of the City of Burlington;

“City Manager” means the City Manager of the City or their designate;

“Council” means the elected council of the City;

“Person” includes a corporation, partnership or limited partnership;

“Power of Decision” means a power or right, conferred by or under this By-law and the Administrative Penalty By-law, to make a decision deciding 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 an appeal from a Screening Decision.

“Hearing Officer” means a person from time to time appointed by Council pursuant to this By-law, and is deemed to be a person who is not an employee of the City but who holds an administration position of the City in accordance with section 258 of the *Municipal Act*, 2001;

“Regulation” means the Administrative Penalties Regulation O. Reg. 333/07, as amended;

“Relative” includes any of the following persons:

1. Spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
2. Parent;

3. Child including a step-child and grandchild;
4. Siblings and children of siblings;
5. Aunt, uncle, niece, nephew;
6. In-laws, including mother father sister, brother, daughter, and son; or
7. Any other person who lives with the person on a permanent basis;

“Screening Officer” means a person from time to time appointed by Council pursuant to this By-law;

“Screening Decision” means a notice which contains the decision of a Screening Officer.

PART 2 – SCREENING OFFICER

2. The position of Screening Officer is established for the purpose of exercising a Power of Decision in the review of an Administrative Penalty in accordance with the City’s Administrative Penalty By-law.
3. A Screening Officer shall have all of the powers of review as set out in the City’s Administrative Penalty By-law and the Regulation.
4. A Screening Officer shall be appointed by the City Manager for such period and subject to such terms and conditions as may be determined by the City Manager in accordance with the City’s employment or contract policies and guidelines.
5. The following are not eligible for appointment as a Screening Officer:
 - a. A member or Relative of a member of Council of the City;
 - b. A person indebted to the City other than
 - (a) in respect of current real property taxes; or
 - (b) pursuant to an agreement with the City the terms with which the person is in compliance.
6. City Manager may revoke the appointment of a Screening Officer at any time.

PART 3 – HEARING OFFICER

7. The position of Hearing Officer is established for the purpose of exercising a Power of Decision in the appeal of a Screening Decision in accordance with the City’s Parking Administrative Penalty By-law.

8. The Hearing Officer shall have all of the powers of review as set out in the City's Administrative Penalty By-law and the Regulation.
9. A Hearing Officer shall be appointed by Council.
10. The following are not eligible for appointment as a Hearing Officer:
 - a. A member or Relative of a member of Council of the City;
 - b. An employee or past employee of the City of Burlington; or,
 - c. A person indebted to the City other than
 - (a) in respect of current real property taxes; or
 - (b) pursuant to an agreement with the City the terms with which the person is in compliance.
11. Hearing Officers shall be appointed from the date the Hearing Officer's appointment is approved by Council, until the earlier of:
 - a. The appointment is cancelled or revoked; or,
 - b. the term of that Council ends; or,
 - c. if the term of that Council ends with no successor having been appointed, until the Hearing Officer's successor has been appointed.
12. A Hearing Officer shall be remunerated at the rate from time to time established by Council.
13. Council may revoke the appointment of a Hearing Officer at any time.

PART 4 – GENERAL PROVISIONS

14. No Person shall attempt to, directly or indirectly, communicate with or influence a Screening Officer or a Hearing Officer respecting the determination of an issue respecting a Power of Decision in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, except for:
 - a. a Person who is entitled to be heard in the proceeding or the Person's lawyer or licensed paralegal; and
 - b. only by that Person or the Person's lawyer or licensed paralegal during the hearing of the proceeding in which the issue arises.
15. Section 14 does not prevent a Screening Officer or a Hearing Officer from seeking and receiving legal advice.

16. Every Person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P33, and the *Municipal Act*, 2001, as both may be amended from time to time.
17. The persons listed in Schedule 1 of this By-law are hereby appointed as Hearing Officers.
18. Schedule 1 forms part of this By-law.
19. The Screening and Hearing Officers shall have no authority to further delegate their powers or duties.
20. This By-law may be referred to as the “Screening and Hearing Officer By-law”.
21. By-law 40-2018 is repealed as of the date of passing of this By-law.

Passed this 24th day of February 2020.

Mayor Marianne Meed Ward _____

City Clerk Angela Morgan _____

The Corporation of the City of Burlington

City of Burlington By-law XX-2020

Schedule “1”
Hearing Officers

NAME	Appointment Date
Roberta Craig	February 24, 2020
Jagger Behnam	February 24, 2020
Diane Hall	February 24, 2020