THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 2024-087

A By-law to Establish the Roles of Screening and Hearing Officers

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

WHEREAS section 102.1 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;

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;

WHEREAS section 434.1 of the *Municipal Act, 2001* authorizes the Town to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality;

WHEREAS section 21.1 of the *Highway Traffic Act*, R.S.O. 1990, c.H.8 (the "Highway Traffic Act") and O. Reg. 355/22, as amended, authorizes a municipality to establish an administrative penalty system for vehicle-based contraventions detected using red-light cameras and automated speed enforcement cameras to promote compliance with the *Highway Traffic Act* and its regulations;

WHEREAS the purpose of the system of administrative monetary penalties established by the municipality shall be to assist the municipality by promoting compliance with its by-laws and other applicable laws and regulations;

WHEREAS sections 23.1, 23.2, 23.3 and 23.5 of the *Municipal Act, 2001* authorize the Town to delegate its administrative and hearing powers;

WHEREAS under the Administrative Penalties By-law a person who receives a penalty notice or penalty order shall have the right to request a review or appeal (as the case may be) of the administrative penalty by a Screening Officer appointed by the municipality;

WHEREAS under the Administrative Penalties By-law, 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;

WHEREAS the Town of Caledon Council is of the opinion that the delegations of legislative power under this by-law are of a minor nature having regard to the number of people, the size of the geographic area, and the time period affected by the exercise of such delegated power;

WHEREAS the Town of Caledon considers it desirable and necessary to establish the position of a Screening Officer and a Hearing Officer which are required for the operation of the Town's administrative penalty system to review and hear appeals of administrative penalty notices and orders;

NOW THEREFORE the Council of The Corporation of the Town of Caledon hereby enacts as follows:

PART I: INTERPRETATION AND DEFINITIONS

1. DEFINITIONS

1.1 In this by-law, the following words have the following meanings:

"**Administrative Penalty By-law**" means the Town's Administrative Penalty By-law, as amended (or its successor), being a by-law to establish a system of administrative penalties respecting a monetary penalty issued by means of a Penalty Order or Penalty Notice, as set out in its By-law for a Contravention of a Designated By-law or the *Highway Traffic Act* or other applicable legislation;

"**Commissioner, Corporate Services**" means the Commissioner, Corporate Services and Chief Legal Officer of The Corporation of the Town of Caledon, their delegate, or anyone designated by the Commissioner, Corporate Services to perform duties pursuant to this by-law, with decision making authority and overall responsibility for the Administrative Monetary Penalty System at the Town;

"**Hearing Officer**" means a Person appointed from time to time in accordance with this by-law, and to perform duties of a Hearing Officer pursuant to the Administrative Monetary Penalties By-law, applicable legislation and the Town's Screening and Hearing policies;

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

"**Issuing Officer**" means each of:

(a) A Municipal Law Enforcement Officer appointed by the Town to enforce its by-laws, and pursuant to Section 55(2) of the *Community Safety and Policing Act, 2019*; and

(b) A police officer employed by the Town's Police Service;

"***Municipal Act, 2001***" means *Municipal Act, 2001*, S.O. 2001, c. 25;

"**Parent**" means a person who has demonstrated a settled intention to treat a child as a member of their family, whether or not that person is the natural parent of the child;

"**Provincial Information**" means information licenced or otherwise made available to the Town by the Province;

"**Person**" includes an individual;

"**Procedure By-law**" means the Town's By-law 2015-108 being A by-law to Govern the Proceedings of Council and its Committees, and any successor to that by-law;

"***Provincial Offences Act***" means the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

"**Related Legislation**" means the *Municipal Act, 2001*, *Highway Traffic Act*, *Provincial Offences Act*, *Statutory Powers and Procedures Act*, and any by-laws of the Town;

"**Relative**" includes any of the following persons:

(a) Spouse (including any person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage, including a same-sex partner);

(b) Parent or legal guardian (including a step-parent);

(c) Child, including a child, step-child, grandchild and step-grandchild;

(d) Siblings and children of siblings;

(e) The sibling of a parent (for example, aunt or uncle);

(f) The children of a sibling of a parent (for example, niece or nephew);

(g) Father-in-law, mother-in-law, sibling-in-law and includes step in-laws; and

(h) A legal dependent.

"**Screening Officer**" means a Person hired and appointed from time to time to perform the duties pursuant to this by-law;

"***Statutory Powers and Procedures Act***" means the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22;

"**Town**" means The Corporation of the Town of Caledon and the geographical limits of the Town of Caledon; and

"**Town Council**" means the municipal council of the Town.

2. INTERPRETATION

2.1 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 the Town 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.

2.2 Unless otherwise stated:

(a) a reference to any statute or regulation refers to a statue or regulation of Ontario as it may be amended, modified, restated, or replaced from time to time and proceedings authorized under the statute or regulation shall not be affected unless expressly provided;

(b) a reference to a by-law refers to a by-law of the Town as it may be amended or replaced from time to time;

(c) a reference to a section, paragraph, clause, or subclause is a reference to this by-law's section, paragraph, clause, or subclause; and

(d) the word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

2.3 A schedule to this by-law shall form part of the by-law.

PART II: SCREENING AND HEARING OFFICERS

3. APPOINTMENTS

Screening Officer

3.1 The position of Screening Officer is established for the purpose of exercising the duties, functions, and decision-making powers set out for a Screening Officer by a by-law of the Town.

3.2 The Commissioner, Corporate Services may hire, employ, discipline and appoint, including termination and revocation of appointment at any time the person becomes unable to carry out the duties related to the Administrative Penalty By-law in a fair and impartial manner or who fails to comply with applicable policies and procedures, in accordance with any applicable Town by-laws or policies;

3.3 In hiring a Screening Officer, the Commissioner, Corporate Services shall give preference to the following qualifications of candidates:

(a) good character;

(b) knowledge of and experience in, interpreting and applying legislation, including municipal by-laws, the *Highway Traffic Act*, and the *Municipal Act, 2001*;

(c) the ability to act impartially and maintain impartiality;

(d) knowledge of and experience in the practice of administrative law, alternative dispute resolution, adjudication and decision-making;

(e) effective leadership, facilitation, communication, presentation, and organizational skills; and

(f) knowledge of and experience in the use of technology in the performance of work duties, including virtual conferencing technology.

Hearing Officer

3.4 The position of Hearing Officer is established for the purpose of exercising the duties and functions and decision-making powers set out for the Hearing Officer by a by-law of the Town.

3.5 From time to time, the Commissioner, Corporate Services shall recommend to Town Council, candidates for the appointment to the role of Hearing Officer that demonstrate the minimum following qualifications:

(a) good character;

(b) knowledge of and experience in, interpreting and applying legislation, including municipal by-laws, the *Highway Traffic Act*, and the *Municipal Act, 2001*;

(c) the ability to act impartially and maintain impartiality;

(d) knowledge of and experience in the practice of administrative law, alternative dispute resolution, adjudication and decision-making;

(e) effective leadership, facilitation, communication, presentation, and organizational skills; and

(f) knowledge of and experience in the use of technology in the performance of work duties, including virtual conferencing technology.

3.6 Town Council may, in its sole discretion, pass resolutions to:

(a) appoint one or more Hearing Officers on such terms and conditions as it may determine from time to time; and

(b) revoke the appointment of one or more Hearing Officers.

3.7 A Hearing Officer shall be appointed for such time period as may be determined by Town Council and the appointment shall be subject to such other terms and conditions as may be determined by the Commissioner, Corporate Services.

3.8 A Hearing Officer shall be remunerated at the rate established by the Town from time to time.

PART III: GENERAL

4.1 The following Persons are not eligible for appointment as either a Screening Officer or a Hearing Officer:

(a) a Town Council Member;

(b) a Relative of a Town Council Member or the Commissioner of Corporate Services;

(c) in the case of a Hearing Officer, an employee of the Town;

(d) the Issuing Officer of the Administrative Penalty for which the review or appeal is requested;

(e) a Person indebted to the Town for failure to pay administrative penalties or fines pursuant to any statute or by-law, including all or a combination of the *Municipal Act, 2001*, *Highway Traffic Act*, or *Provincial Offences Act*; except:

i) in respect of current property taxes; or

ii) pursuant to an agreement with the Town, where the person follows the terms thereof; and

(f) a Person that is not authorized by law, including pursuant to an agreement with the Province of Ontario, to access Provincial Information.

4.2 An appointment pursuant to this by-law is deemed revoked if the appointed Person becomes ineligible for appointment pursuant to section 4.1.

4.3 Any delegation of authority to a Screening Officer or Hearing Officer pursuant to this by-law may not be delegated by the Screening Officer or Hearing Officer.

4.4 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.

4.5 The Commissioner, Corporate Services 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 administrative penalty system, and to amend the same from time to time as deemed necessary.

4.6 The Commissioner, Corporate Services is delegated the power to establish and implement any policies necessary to implement this by-law.

4.7 No Person shall attempt to directly or indirectly communicate with or influence either a Screening Officer or a Hearing Officer regarding the determination of an issue in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, as the case may be, except a person who is entitled to be heard in the proceeding or the person's lawyer or licensed representative and only by the person or the person's lawyer or licensed representative during the hearing of the proceeding in which the issue arises.

4.8 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power or performing a duty under this by-law.

4.9 No Person shall omit information or make a false or intentionally misleading statement, representation or other recital in any hearing or form or document made or submitted pursuant to this by-law.

4.10 Nothing in this by-law prevents a Screening Officer or Hearing Officer from seeking or receiving legal advice in respect of an issue in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, as the case may be.

4.11 For the purposes of section 23.2(4) of the *Municipal Act, 2001*, Town Council has determined that the powers delegated to the Screening Officer and the Hearing Officer pursuant to this by-law are of a minor nature.

4.12 The powers and duties delegated in this by-law include any powers and duties incidental to carrying out the powers described in this by-law and any Related Legislation. Every Person who contravenes any of subsections 4.7, 4.8 or 4.9 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*.

4.13 If a corporation has contravened a provision of this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

4.14 Every person who is guilty of an offence under this by-law shall be subject to the following penalties:

(a) upon a first conviction, to a fine of not less than $100 and not more than $100,000;

(b) upon a second or subsequent conviction for the same offence, to a fine of not less than $400 and not more than $100,000;

(c) upon conviction for a continuing offence, to a fine of not less than $400 and not more than $10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed $100,000; and

(d) upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than $400 and not more than $10,000. The total of all fines for each included offence may exceed $100,000.

4.15 For the purposes of this by-law an offence is a "second or subsequent offence:" if the act giving rise to the offence occurred after a conviction has been entered at an earlier date for the same offence and a "multiple offence" means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.

4.16 If an order other than an administrative penalty order has been issued under this by-law or by the court, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.

5. SHORT TITLE

5.1 This by-law may be referred to as the "Screening and Hearing Officer By-law".

6. EFFECTIVE DATE

6.1 This By-law shall come into force and effect on April 1, 2025.

Enacted by the Town of Caledon Council this 22nd day of October, 2024.

Annette Groves, Mayor

Kevin Klingenberg, Municipal Clerk