

THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW NO. 2019-116

BEING A BY-LAW TO ESTABLISH A SYSTEM OF ADMINISTRATIVE PENALTIES IN THE CITY OF CLARENCE-ROCKLAND

WHEREAS subsection 102.1 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("*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* that applies to administrative penalties in respect of the parking, standing or stopping of vehicles;

WHEREAS the City of Clarence-Rockland considers it desirable to designate portions of the City's Traffic By-law No.2019-013, as amended, that deal with parking, standing or stopping of vehicles to be applicable to the administrative penalty system established through this By-law;

WHEREAS the City of Clarence-Rockland considers it desirable to have one administrative penalty system for all by-laws to which administrative penalties may apply and may designate other by-laws to be applicable to the administrative penalty system established through this By-law;

AND WHEREAS the City of Clarence-Rockland considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through the administrative penalty system;

NOW THEREFORE the Council of the City of Clarence-Rockland enacts as follows:

PART I – SHORT TITLE

1. This By-law may be referred to as the "Administrative Penalty By-Law – Parking".

PART II – DEFINITIONS

2. For the purposes of this By-law:

"Administrative Penalty" means a monetary penalty as set out in Schedule "A" to this By-law for a contravention of a Designated By-law;

“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 Clarence-Rockland;

“Clerk” means the Clerk for the City, or his or her delegate;

“Corporation” means the Corporation of the City of Clarence-Rockland;

“Council” means the elected Council of the City of Clarence-Rockland;

“Decision of a Hearings Officer” means a notice that contains the decision of a Hearings Officer;

“Designated By-law” means a by-law or provision of a by-law that is designated under this or any other by-law, as a by-law or provision of a by-law to which this By-law applies and is listed in Schedule “A” attached to this By-law;

“Hearing No Show Fee” means an administrative fee set out in Schedule “B” to this By-law in respect of a Person’s failure to appear at the time and place scheduled for a review before a Hearings Officer;

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

“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 “B” to this By-law in respect of a Person’s failure to pay an Administrative Penalty within the time prescribed in this By-law;

“MTO Plate Denial Fee” means an administrative fee set out in Schedule “B” attached 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 “B” to this By-law in respect of searching the records of the Ontario Ministry of Transportation;

“Officer” means each of:

- (a) a Municipal Law Enforcement Officer or other person appointed by or under the authority of a City by-law to enforce a Designated By-law, and
- (b) a police officer employed by the Ontario Provincial Police (OPP).

“Penalty Notice” means a notice containing an Administrative Penalty given to a person pursuant to section 5 of this By-law;

“Penalty Notice Date” means the date of the contravention specified on the Penalty Notice pursuant to subsection 7 (b);

“Penalty Notice Number” means the number specified on the Penalty Notice pursuant to subsection 7 (c);

“Person” includes an individual and a corporation;

“Regulation” means the Administrative Penalties, Ontario Regulation 333/07;

“Request for Review by Hearings Officer” means the form attached to the Notice of Decision which may be filed by a Person under subsections 21 of this By-law;

“Screening Decision” means a notice that contains the decision of a Screening Officer;

“Screening No Show Fee” means an administrative fee set out in Schedule “B” to this By-law in respect of a person’s failure to appear at the time and place scheduled for a review by a Screening Officer; and

“Screening Officer” means a person from time to time appointed by Council pursuant to the Screening and Hearings Officer By-law.

PART III – DESIGNATED BY-LAWS

3. City by-laws, or portions of City by-laws, that are listed in Schedule A to this By-law shall be Designated By-laws and are hereby designated for the purposes of section 3 (1) (b) of the Regulation and the provisions of this By-law shall apply to any contravention of a Designated By-law. Schedule A shall set out the short form wording to be used for the contraventions of Designated By-laws and also set out the Administrative Penalties imposed for the contraventions.
4. The *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, does not apply to a contravention of a Designated By-law.

PART IV – PENALTY NOTICE

5. Every Person who contravenes a provision of a Designated By-law shall, when given a Penalty Notice, be liable to pay to the City the Administrative Penalty set out in the Penalty Notice within 15 days of the Penalty Notice

Date.

6. An Officer who has reason to believe that a Person has contravened a provision of a Designated By-law may issue a Penalty Notice to that Person.
7. A Penalty Notice shall include the following information:
 - (a) the vehicle license plate number;
 - (b) the Penalty Notice Date;
 - (c) a Penalty Notice Number;
 - (d) the short form contravention wording listed in Schedule A, which describes the particulars of the contravention;
 - (e) the amount of the Administrative Penalty;
 - (f) such information as the Clerk determines is appropriate respecting the process by which the person may exercise the person's right to request a review of the Administrative Penalty;
 - (g) a statement advising that an Administrative Penalty, including any administrative fee, will, unless cancelled or reduced pursuant to a review, constitute a debt of the person to the City; and
 - (h) the name and identification number of the Officer.
8. (1) In addition to service methods provided for in section 33 (1), an Officer may serve the Penalty Notice on a person who is the owner of a vehicle, where the vehicle is identified in the Penalty Notice, by:
 - (a) affixing it to the vehicle in a conspicuous place at the time of the alleged infraction; or
 - (b) by delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction.
- (2) Service of a Penalty Notice under subsection 33 (1) is effective at the time it is affixed to the vehicle or delivered to the person having care and control of the vehicle.
9. No Officer may accept payment of an Administrative Penalty.
- 10.(1) A person who is given a Penalty Notice and who does not pay the amount of the Administrative Penalty within 15 days of the Penalty Notice Date shall pay to the City an MTO Search Fee.

- (2) Despite subsection 34 (2), for the purposes of subsection 10(1) the Administrative Penalty is due and payable on the Penalty Notice Date where a Person does not pay the Administrative Penalty within 15 days after the Penalty Notice Date.

PART V – REVIEW BY A SCREENING OFFICER

11. A person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer and shall do so within 15 days after the Penalty Notice Date.
12. (1) If a person has not requested a review within the time limit set out in section 11, a person may request that the Screening Officer extend the time to request a review within 30 days after the Penalty Notice Date.
- (2) A Person's right to request an extension of time in subsection 12. (1) expires if it has not been exercised within 30 days after the Penalty Notice Date at which time:
- (a) the Person shall be deemed to have waived the right to request a review;
 - (b) the Administrative Penalty, including any administrative fees, shall be deemed to be affirmed on the 16th day after the Penalty Notice Date; and
 - (c) the Administrative Penalty, including any administrative fees, is not subject to any further review, including review by any court.
13. A person's right to request a review or to request an extension of time to request a review are exercised by:
- (a) calling the telephone number listed on the Penalty Notice, providing the information required as set out in the Penalty Notice and scheduling the time and place for the review; or
 - (b) attending in person at the location listed in the Penalty Notice to provide the information required in the Penalty Notice and scheduling the time and place for the review.
14. A review or a request for an extension of time to request a review shall only be scheduled by the City if the Person has exercised his or her right to request a review or an extension of time to request a review within the time limits set out in sections 11 or 12.
15. Where a person fails to attend at the time and place scheduled for a

review:

- (a) the person shall be deemed to have abandoned the request for a review of the Administrative Penalty;
 - (b) the person shall pay to the City a Screening No Show Fee ;
 - (c) the Administrative Penalty, including any administrative fees, shall be deemed to be affirmed on the date that was scheduled for the review; and
 - (d) the Administrative Penalty, including any administrative fees, is not subject to any further review, including review by any court.
16. (1) For the purposes of subsection 12 (1), the Screening Officer may only extend the time to request a review of an Administrative Penalty where the Person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that prevented the Person from exercising the right to request a review in the timeframe set out in section 11.
- (2) Where an extension of time is not granted by the Screening Officer, the Administrative Penalty, including any administrative fees, is deemed to be affirmed.
17. On a review of the Administrative Penalty, the Screening Officer may affirm the Administrative Penalty, including any administrative fee, or the Screening Officer may cancel, reduce, or extend the time for payment of the Administrative Penalty, including any administrative fee, on the following grounds:
- (a) where the person establishes on a balance of probabilities, that he or she did not contravene the Designated By-law as described in the Penalty Notice; or
 - (b) the cancellation, reduction or extension of time for payment of the Administrative Penalty, including any administrative fees, is necessary to relieve any undue hardship.
18. After a review of the Administrative Penalty has been held, the Screening Officer shall deliver a Screening Decision to the person.

PART VI – REVIEW BY A HEARINGS OFFICER

19. A person may request a review of a Screening Decision by a Hearings Officer and shall do so within 15 days after the Screening Decision has been delivered to the person.

20. (1) If a person has not requested a review within the time limit set out in section 19, a person may request that the Hearings Officer extend the time to request a review within 30 days after the Screening Decision has been delivered to the person.
- (2) A person's right to request an extension of time in subsection 20 (1) expires if it has not been exercised within 30 days after the Screening Decision has been delivered at which time:
- (a) the person shall be deemed to have waived the right to request a hearing;
 - (b) the Screening Decision, which includes the Administrative Penalty and any administrative fees, shall be deemed to be affirmed; and
 - (c) the Screening Decision, which includes the Administrative Penalty and any administrative fees, is not subject to any further review, including review by any court.
21. A person's right to request a review of a Screening Decision or to request an extension of time to request the review are exercised by attending in person or by representative at the place specified in the Request for Review by Hearings Officer form and filing a completed form.
22. A review or a request for an extension of time to request a review shall only be scheduled by the City if the person has exercised his or her right to request a review or an extension of time to request a review within the time limits set out in sections 19 or 20.
23. Where a person fails to attend at the time and place scheduled for a review by the Hearings Officer:
- (a) the person shall be deemed to have abandoned the request for a review of the Screening Decision;
 - (b) the person shall pay to the City a Hearing No Show Fee; and
 - (c) the Screening Decision, which includes the Administrative Penalty and any administration fees, shall be deemed to be affirmed on the day scheduled for the Hearing; and
 - (d) the Screening Decision, which includes the Administrative Penalty and any administration fees, is not subject to any further review, including review by any court.
24. (1) For the purposes of section 20, the Hearings Officer may only extend the time to request a review of a Screening Decision where the Person

demonstrates, on a balance of probabilities, the existence of extenuating circumstances of extenuating circumstances that prevented the person from exercising the right to request a review in the timeframe set out in section 19.

- (2) Where an extension of time is not granted by the Hearing Officer the Screening Decision, which includes the Administrative Penalty and any administrative fees, is deemed to be affirmed and shall not be subject to any further review, including review by any court.
25. A Hearings Officer shall not make any decision respecting a review of a Screening Decision unless the Hearings Officer has given the person and the City an opportunity to be heard at the time and place scheduled for the hearing of the review.
26. On a review of a Screening Decision, the Hearings Officer may affirm the Screening Decision, or the Hearings Officer may cancel, reduce or extend the time for payment of the Administrative Penalty, including any administrative fee, on the following grounds:
- (a) where the person establishes on a balance of probabilities, that he or she did not contravene the Designated By-law as described in the Penalty Notice; or
 - (b) the cancellation, reduction or extension of time for payment of the Administrative Penalty, including any administrative fee, is necessary to relieve any undue hardship.
27. All hearings conducted by the Hearings Officer shall be in accordance with the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, as amended.
28. After a hearing is completed the Hearings Officer shall issue to the person a Decision of a Hearings Officer.
29. Any decision by a Hearings Officer is final and is not subject to any further review, including review by any court.
30. Neither a Screening Officer nor a Hearings 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.

PART VII – ADMINISTRATION OF THE BY-LAW

31. (1) The Clerk shall administer the By-law and establish any practices, policies and procedures necessary to implement the By-law.

- (2) The Clerk shall prescribe all forms and notices, including the Penalty Notice, necessary to implement the By-law and may amend such forms and notices from time to time as he/she deems necessary.
32. (1) The Clerk may cancel an Administrative Penalty, including any administrative fee, where the Penalty Notice was issued to a person because:
- (a) an error was made by the City; or
 - (b) the licence plate or vehicle subject to the contravention had been stolen from the Owner at the time of the contravention.
32. (2) The Clerk may cancel any administrative fee, without cancelling the Administrative Penalty, where the fee was imposed as the result of an error made by the City.

PART VIII – SERVICE OF DOCUMENTS

33. (1) Service of any document or notice, including a Penalty Notice, respecting this By-law may be given in writing in any of the following ways and is effective:
- (a) when a copy is delivered to the person to whom it is addressed;
 - (b) on the 5th day after a copy is sent by registered mail or by regular letter mail to the person's last known address;
 - (c) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
 - (d) upon the sending a copy by e-mail transmission to the person's last known e-mail address.
- (2) For the purposes of subsections 33 (1) (b), (c) and (d), a Person's last known address, facsimile number and e-mail address may include an address, facsimile number and e-mail provided by the person to the City as may be required by a form, practice or policy developed under this By-law.

PART VIX – GENERAL PROVISIONS

34. (1) An Administrative Penalty, including any administrative fees, that is

affirmed or reduced or in respect of which the time for payment has been extended is due and payable and constitutes a debt to the City owed by the Person to whom the Penalty Notice was given.

- (2) An Administrative Penalty, including any administrative fees, that is deemed affirmed is automatically affirmed under this By-law and does not require an exercise of the powers provided to the Screening Officer or the Hearings Officer.
- 35. Where an Administrative Penalty is not paid within 15 days after it becomes due and payable, the Person to whom the Penalty Notice was given shall pay to the City a Late Payment Fee.
- 36. Where an Administrative Penalty is not paid within 30 days after it becomes due and payable, the Person to whom the Penalty Notice was given shall pay to the City an MTO Plate Denial Fee.
- 37. Where an Administrative Penalty is cancelled by a Screening Officer or a Hearings Officer any administrative fee is also cancelled.
- 38. Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.
- 39. Any schedule attached to this By-law forms part of this By-law.

PART X – EFFECTIVE DATE AND VALIDITY

- 40. This By-law shall come into force and effect on June 1st, 2020.
- 41. If a court of competent jurisdiction declares any provision, or any part of a provision of this By-law to be invalid, or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 16th day of December 2019.

SCHEDULE A

CITY OF CLARENCE-ROCKLAND ADMINISTRATIVE PENALTY

BY-LAW - DESIGNATED BY-LAW PROVISIONS

TRAFFIC AND PARKING BY-LAW 2019-116

1. For the purposes of section 3 of this By-law, Column 1 in the following table lists the provisions in the Traffic and Parking By-law 2019- , as amended that are hereby designated for the purposes of 3 (1) (b) of the Regulation.
2. Column 2 in the following table sets out the short form wording to be used in a Penalty Notice for the contravention of the designated provisions listed in Column 1.
3. Column 3 in the following table sets out the Administrative Penalty amounts that are payable for contraventions of the designated provisions listed in Column 1.

ITEM	COLUMN 1 Designated Provisions	COLUMN 2 Short Form Wording	COLUMN 3 Administrative Penalty
1	Sect. 5. (1)(a)	Park more than 15 cm from curb	\$ 85.00
2	Sect. 5. (1)(a)	Park facing wrong way	\$ 85.00
3	Sect. 8. (k)	Park obstructing sidewalk	\$ 85.00
4	Sect. 8. (b)	Park within 3 m of fire hydrant	\$100.00
5	Sect. 8. (c)	Park in front of driveway	\$ 85.00
6	Sect. 8. (c)	Park in front of laneway	\$ 85.00
7	Sect. 8. (a)	Park within 6 m of intersection	\$ 85.00
8	Sect. 8. (l)	Obstructing traffic	\$ 100.00
9	Sect. 12.(2)(b)	Park on crosswalk	\$ 85.00
10	Sect. 13.(2)(a)	Park on pedestrian crossover	\$ 85.00
11	Sect. 17(1)(a)	Parking 1:00 a.m. to 7:00 a.m. prohibited	\$ 85.00
12	Sect. 11	Park in prohibited area	\$ 85.00
13	Sect. 14(1)	Stop where sign prohibiting stopping is displayed	\$100.00
15	Sect. 7.(i)	Park in no parking loading zone	\$ 100.00
16	Sect. 10	Park interfering with snow removal and/or winter maintenance	\$ 125.00
18	Sect. 6(2)	Park detached trailer on street	\$ 85.00
19	Sect. 6.(1)	Park heavy truck on street in excess of 2 hours	\$ 125.00
20	Sect. 45	Park on private property	\$ 85.00

21	Sect. 16.(1)	Park prohibited time as posted	\$ 100.00
22	Sect. 14(1)	Stop prohibited time as posted	\$100.00
23	Sect. 8.(g)	Park unlicensed vehicle	\$ 85.00
24	Sect. 8.(f)	Park vehicle for the purpose of selling it	\$ 85.00
25	Sect. 52	Park on municipal property	\$ 85.00
26	Sect. 50.(1)(b)	Park and fail to display receipt	\$ 85.00
27	Sect. 50.(2)	Park and exceed time displayed on pay and display receipt	\$ 85.00
28	Sec 7.(h)	Park/stop in taxi zone/stand	\$ 85.00
29	Sect. 62.(1)	Park accessible parking space on street/no permit	\$350.00
30	Sect. 62.(1)	Park in accessible parking space/no permit	\$350.00

SCHEDULE B

CITY OF CLARENCE-ROCKLAND ADMINISTRATIVE

PENALTY BY-LAW 2019-116

ADMINISTRATIVE FEES

ITEM	COLUMN 1 Administrative Fee	COLUMN 2 Amount
1	Late Payment Fee	\$15.00
2	MTO Plate Denial Fee	\$22.00
3	MTO Search Fee	\$10.00
4	Screening No Show Fee	\$50.00
5	Hearing No Show Fee	\$100.00