

**BY-LAW NUMBER 129-24**

- of -

**THE CORPORATION OF THE COUNTY OF BRANT**

To Establish and Operate a System to Use Camera Based Traffic Enforcement, and an Administrative Penalties System for Violations of the Highway Traffic Act (Automated Speed Enforcement)

**WHEREAS** section 10(2) of the Municipal Act, 2001, S.O. 2001 c. 25 (“Municipal Act, 2001”), authorizes a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change, the health, safety and well-being of Persons and protection of Persons and property;

**WHEREAS** section 128 of the Highway Traffic Act, R.S.O. 1990, c.6 (Highway Traffic Act) provides for the regulation of the rate of speed by and provides for penalties for contraventions of section 128 of the Highway Traffic Act;

**AND WHEREAS** subsection 205.1 of the Highway Traffic Act provides that an automated speed enforcement system may be used in accordance with Part XIV.1 of, and the regulations made under the Highway Traffic Act;

**AND WHEREAS** subsection 21.1(2) of the Highway Traffic Act, authorizes the *County* of Brant, by order, to impose an *Administrative Penalty* on a Person if the County of Brant is satisfied that the Person is contravening or not complying with or has contravened or failed to comply with subsection 128(1) of the *Highway Traffic Act* based on evidence obtained through the use of an automated speed enforcement system;

**AND WHEREAS** Ontario Regulation 355/22 (Administrative Penalties For Contraventions Detected Using Camera Systems) regulates the enforcement of contraventions of subsection 128(1) of the Highway Traffic Act, and the use of municipal *Administrative Penalty* Systems authorized by subsection 21.1(2) of the Highway Traffic Act;

**AND WHEREAS** section 391 of the Municipal Act, 2001, S.O. 2001, c. 25 (“Municipal Act”) provides that a municipality may impose fees or charges on *Persons* for services or activities provided or done by or on behalf of it;

**AND WHEREAS** subsection 434.2(1) of the Municipal Act provides that an Administrative Penalty imposed by a municipality on a Person constitutes a debt of the Person to the municipality;

**AND WHEREAS** the Council of the Corporation of the *County* of Brant is desirous of establishing an automated speed enforcement program authorized by subsection 205.1 of the Highway Traffic Act and an *Administrative Penalty* regime authorized by subsection 21.1 of the Highway Traffic Act;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:**

**1. DEFINITIONS**

In this By-law,

**"Administrative Penalty"** means an Administrative Penalty established by this by-law in accordance with subsection 21.1, subsection 128(1), and Ontario Regulation 355/22 of the Highway Traffic Act, R.S.O.1990, c. H.8, as amended;

**"Administrative Penalty Amount"** means the combined amount payable for a Contravention as determined in accordance with Schedule "A";

**"Business Day"** means a day from Monday to Friday, other than a holiday as defined in section 87 of the Legislation Act, 2006, S.O. 2006, c. 21, Schedule F, as amended from time to time;

**"Contravention"** means a violation of subsection 128(1) of the Highway Traffic Act as determined by an automated speed enforcement system;

**"Council"** means the Council for The Corporation of the County of Brant;

**"County"** means The Corporation of the County of Brant;

**"Deemed Service Date"** means the date of service of a document pursuant to section 19 of this by-law.

**"Director"** means the Director of Enforcement and Regulatory Services, or anyone designated by the Director to perform all or part of the Director's duties in relation to this by-law;

**"Email"** has the same meaning as is given Electronic Mail under the Electronic Commerce Act, 2000, S.O. 2000, c. 17;

**"Hearing Officer"** means a Person appointed pursuant to County of Brant By-law #87-23, to perform the duties, functions, and decision-making powers of a Hearing Officer in relation to this by-law;

**"Hearing Officer Review"** means a review of a *Screening Decision* heard by a Hearing Officer as set out in section 10 of this by-law;

**"Hearing Decision"** means a decision made by a Hearing Officer pursuant to section 12 of this by-law;

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

**"Holiday"** means any day that the offices of the County are officially closed for business and includes any day defined as a holiday in the Legislation Act;

**"Legislation Act"** means the Legislation Act, 2006, S.O. 2006, c. 21, Schedule F, as amended from time to time;

**"Motor Vehicle Permit"** means a motor *Vehicle* permit issued by the Province of Ontario pursuant to the Highway Traffic Act or any other jurisdiction outside of Ontario;

**"MTO"** means the Ontario Ministry of Transportation as renamed or reconstituted from time to time;

**"Officer"** means any authorized person employed by the Corporation of the County of Brant, and designated as a provincial offences officer by the Minister of Transportation under subsection 1(3) of the Provincial Offences Act for the purposes of imposing an Administrative Penalty in accordance with subsection 21.1(2) of the Highway Traffic Act and subsection 4.2 of Ontario Regulation 355/22;

**"Owner"** means the holder of the motor *Vehicle* permit, or, if the motor *Vehicle* permit consists of a *Vehicle* portion and plate portion and different Persons are named on each portion, the Person whose name appears on the plate portion;

**"Payment Plan"** means a plan of periodic payments imposed by a Screening or Hearing Officer;

**"Penalty Order"** means an Administrative Order issued pursuant to Section 2 of this By-law;

**"Person"** means an individual, sole proprietorship, firm, association, corporation, partnership, limited partnership, registrant of a business name;

**"Regulation"** means Ontario Regulation 355/22 (Administrative Penalties For Contraventions Detected Using Camera Systems) filed under the Highway Traffic Act;

**"Request for Extension Form"** means the form established by the Director for a Person to request an extension of time to Request a Screening Review or Hearing Officer Review, as the circumstances dictate;

**"Request for Hearing Officer Review Form"** means the form established by the Director for a Person to request a Hearing Officer Review;

**"Screening Decision"** means a decision made by a Screening Officer;

**"Screening Officer "** means a Person appointed by the Director pursuant to County of Brant By-law #87-23 as amended from time to time, to perform the duties, functions, and decision-making powers of a Screening Officer in relation to this by-law;

**"Request for Screening Review Form"** means the form established by the Director for a Person to request a Screening Review;

**"Review"** means the prescribed process where a person can appeal a Penalty Order.

**"Guidelines for Reviews"** means the Automated Speed Enforcement Administrative Penalties (ASE AP) Guidelines for Reviews document as approved by Council upon enactment of this By-law and as may be amended from time to time.

**"Vehicle"** means a *Vehicle* as defined by the Highway Traffic Act.

## 1.1 APPLICATION OF THIS BY-LAW

- (1) This by-law serves as the *County's* process to issue *Penalty Orders* associated with Administrative Penalties for *contraventions* of subsection 128(1) of the Highway Traffic Act.
- (2) A *Penalty Order* shall not be imposed if the *Person* is charged with an offence under the Highway Traffic Act in respect of the same *Contravention*.

- (3) The *County* will further collect the amount identified in subsection 6(1)5 of the *Regulation* as it appeared on the date of the *contravention* to reflect the costs incurred by the *County* to access the name and most recent address of the *Person* who is subject to the *Penalty Order*.
- (4) This by-law includes the attached Schedule "A" which is hereby declared to form part of this by-law.
- (5) Schedule "A" of this by-law sets out *Administrative Penalty* amounts for contraventions of the designated sections or portions of the designated sections of the HTA, as in accordance with section 6 of the *Regulation*. Where a discrepancy in the *Administrative Penalty* amount occurs, the penalties outlined in section 6 of the *Regulation* shall prevail.

## **2. PENALTY ORDER AND ADMINISTRATIVE PENALTY**

- (1) An *Officer* who is satisfied that a *Person* is in *contravention* or has contravened subsection 128(1) of the Highway Traffic Act based on evidence obtained through the use of an automated speed enforcement system may issue and serve a *Penalty Order* to that *Person*.
- (2) A *Penalty Order* cannot be issued 23 days after the day on which the *contravention* occurred.
- (3) Any *Person* to whom a *Penalty Order* is issued in accordance with subsection 2(1) of this by-law, is liable to pay to the *County* an *Administrative Penalty* and administrative fees in the amount specified in the *Penalty Order*.
- (4) For greater certainty, if a *Penalty Order* is issued pursuant to section 2(1), the *Penalty Order* shall be imposed on the *Owner* whether or not the *Owner* was the driver of the *Vehicle*.
- (5) The *Penalty Order* shall include the following information:
  - (a) A unique file number.
  - (b) The provision contravened.
  - (c) The date, and location of the *contravention*.
  - (d) An identification of the motor *Vehicle* that is involved in the *contravention*.
  - (e) The amount of the *Administrative Penalty* as determined by Schedule "A".
  - (f) A statement that the *Owner* of the motor *Vehicle* must, no later than 30 days after the day the order is served on them, pay the *Administrative Penalty* unless they commence an appeal in accordance with the *Regulation*.
  - (g) A statement that the *Owner* of the motor *Vehicle* may, no later than 30 days after the day the *Penalty Order* is served on them, commence an appeal in accordance with the *Regulation*.
  - (h) Information regarding the appeal (review) process including the manner in which to commence an appeal.
  - (i) Such additional information as the *Director* determines is appropriate;

## **3. PAYMENT OF AN ADMINISTRATIVE PENALTY**

- (1) An *Officer* may not accept payment of an *Administrative Penalty*.
- (2) A *Person* who has been issued a *Penalty Order* shall:
  - (a) pay the *Administrative Penalty* within 30 days after the *Deemed Service Date* of the *Penalty Order*; or
  - (b) request that the *Administrative Penalty* be reviewed by a *Screening Officer* in accordance with Section 5 of this by-law by filing a *Request for Screening Review Form* in the manner set out by the *Director*.
- (3) Payment of an *Administrative Penalty* or an administrative fee can be made through a *County* approved payment system.
- (4) Payment of an *Administrative Penalty* must be received by the due date and will not be credited until received by the *County*.
- (5) Once an *Administrative Penalty* has been paid, it shall not be subject to a *Review* by a *Screening Officer* unless there is an error on the face of the *Penalty Order* as determined by the *Director* who may cancel the *Penalty Order* and direct a refund of all amounts paid.
- (6) No *Person* has the right to be heard prior to the imposition of a *Penalty Order*.

#### **4. NON-PAYMENT OF AN ADMINISTRATIVE PENALTY**

- (1) Unless otherwise stated in this By-law, where a *Penalty Order* is deemed served and the *Administrative Penalty* is not paid within 30 days of the *Deemed Service Date* of the *Penalty Order*:
  - (a) the *Administrative Penalty* shall be deemed to be confirmed;
  - (b) Where an *Administrative Penalty*, including any administrative fees, is not paid within 30 calendar days from the *Deemed Service Date* after it has become due and payable, the *County* may recover the amount of unpaid Administrative Penalties, including administration fees as outlined in Ontario Regulation 355/22 by referring the *Administrative Penalty* to the Ministry of the Attorney-General Defaulted Fines Control Centre which will subject the *Owner* to restrictions of their *Motor vehicle Permit*.
  - (c) The *Owner* will be responsible for any charges or associated fees related to restrictions of their *Motor Vehicle Permit*.

#### **5. REVIEW OF AN ADMINISTRATIVE PENALTY BY SCREENING OFFICER**

- (1) A *Person* who is served with a *Penalty Order* may request a *Review* of the *Administrative Penalty* by a *Screening Officer* within 30 days after the *Deemed Service Date* of the *Penalty Order* by filing a *Request for a Screening Review Form* in the manner prescribed by the *Director*.
- (2) If a *Person* does not file a *Request for a Screening Review Form* within 30 days after the *Deemed Service Date* of the *Penalty Order* or a *Request*



- for Extension Form* within 45 days after the *Deemed Service Date* of the *Penalty Order* the *Administrative Penalty* shall be deemed to be confirmed.
- (3) Upon receipt of the *Request for a Screening Review Form*, the *Director* shall determine the format to be used for the *Review* in accordance with the *Guidelines for Reviews*.
- (4) The *Person* requesting a *Review* of the *Administrative Penalty* shall be notified by a *Screening Officer*:
- (a) of the date and time of the *Review*; and
  - (b) of the manner in which the *Review* will be conducted;
  - (c) the *Director* shall refuse to accept a *Request for Screening Review Form* if it is not complete, is illegible or is not filed in the prescribed manner;
  - (d) a *Screening Review* shall not be conducted if a *Request for Screening Review Form* is refused and the *Administrative Penalty* amount remains due and payable in accordance with the *Penalty Order*.
  - (e) For greater certainty, subsections 4(a) and (b) do not apply to *Screening Reviews* conducted via *email*.
- (5) If a *Person* subject to a *Penalty Order* does not file, with the *County*, a complete *Request for Screening Review Form* in accordance with this by-law:
- (a) the *Person* shall be deemed to have waived the right to request a *Screening Review*;
  - (b) the *Penalty Order* shall be deemed to be confirmed, and the *Administrative Penalty* Amount is due and payable in accordance with the *Penalty Order*; and
  - (c) the *Penalty Order* is final and shall not be subject to any further review.
- (6) Written submissions to a *Screening Officer* relating to a scheduled screening *Review* shall be submitted to the *Screening Officer* by 12:00 noon, one *business day* prior to the *Review*.
- (7) Written submissions to a *Screening Officer* relating to an *email* screening *Review* shall be submitted upon completion and submission of the *Request for Screening Review Form*.
- (8) No witnesses shall be called in the *Review* of the *Administrative Penalty* by a *Screening Officer*.
- (9) A *Screening Officer* shall determine whether it was reasonable for the *Officer* to impose the *Penalty Order* and, in making this determination, may consider the following information, if available, in the conduct of a *Review*:
- (a) Photographs or images taken by the camera system or enforcement system, as applicable;

- (b) Statements, including certified statements, made by the *Officer* who imposed the *Penalty Order*;
- (c) Documents, including certified documents, setting out the name and address of the *Person* who is subject to the *Penalty Order*, a description of the permit and the number plate of the motor *Vehicle*;
- (d) Statements by the *Person* made either in writing or in the manner in which the *Screening Review* is conducted;
- (e) Statements by or on behalf of the *County* in which the contravention that is the subject of the *Penalty Order* occurred, made either in writing or in the manner in which the *Screening Review* is conducted; and
- (f) Any other information, materials or submissions that the *Screening Officer* considers to be credible or trustworthy in the circumstances.

## 6. EXTENSION OF TIME TO REQUEST REVIEW

- (1) A *Person* may request that the *Screening Officer* extend the time to request a *Review* of the *Administrative Penalty* within 45 days after the *Deemed Service Date* of the *Penalty Order* by filing in the manner prescribed by the *Director* a *Request for Extension Form*, failing which, the *Administrative Penalty* shall be deemed to be confirmed.
  - (a) A *Person* subject to a *Penalty Order* and seeking an extension of time may file, along with the *Request for Extension Form*, written submissions, and other documents in support of the request.
  - (b) The *Director* shall refuse to accept a *Request for Extension Form* if it is not complete, is illegible or is not filed in the prescribed manner.
  - (c) A *Screening Review* shall not be conducted if a *Request for Extension Form* is refused, and
    - i. the *Administrative Penalty* amount remains due and payable in accordance with the *Penalty Order*; and
    - ii. The *Penalty Order* is confirmed and shall not be subject to any further review.
- (2) The *Screening Officer* may:
  - (a) request such information from a *Person* as the *Screening Officer* considers relevant to a request to extend the time to request a *Review* of the *Administrative Penalty*; and
  - (b) extend the time to request a *Review* of the *Administrative Penalty* when the *Person* requesting the extension demonstrates, on a balance of probabilities, extenuating circumstances for failing to take action that warrants the extension of time.
- (3) Where an extension of time to request a *Review* is not granted by the *Screening Officer*, the *Administrative Penalty* is deemed to be

confirmed.

- (4) A *Request for Extension Form* shall include the *Penalty Order* number and the *Person's* contact information.
- (5) The *Screening Officer* will consider only the request for extension and not the *Administrative Penalty*.
- (6) The *Screening Officer* shall serve a copy of the decision regarding the request for extension on the *Person* subject to the *Penalty Order* as soon as practical after the decision is made.

## 7. SCREENING DECISION

- (1) On a review of the *Administrative Penalty*, the *Screening Officer* may confirm, cancel, reduce or extend the time for payment of the *Administrative Penalty*, including any additional administrative fees, on the following grounds:
  - (a) where the *Person* establishes on the balance of probabilities that the *Person* did not commit the *Contravention* as described in the *Penalty Order*; or
  - (b) the cancellation, reduction or extension of the time for payment of the *Administrative Penalty*, including any administrative fees, is necessary to reduce financial hardship;
  - (c) set aside the *Penalty Order* if the *Screening Officer* becomes aware, before issuing a final decision, that the *Person* who is subject to the *Penalty Order* is charged with an offence under the *Highway Traffic Act* in respect of the same *Contravention*; or
  - (d) for the reasons outlined in the *Guidelines for Reviews*.
- (2) When a *Screening Officer* decides to vary the *Administrative Penalty* Amount, the *Administrative Penalty* Amount shall be varied in accordance with the rules in subsection 14(2) of the *Regulation*.
- (3) The *Screening Officer* shall issue a decision to the *Person* by mail, *email* or facsimile using the contact information provided by the *Person* in the *Request for Screening Review Form*.
  - (a) If the decision is issued by mail, *email* or facsimile, the decision shall include:
    - i. the name of the *Person* subject to the *Penalty Order*;
    - ii. the unique file number of the *Penalty Order*;
    - iii. the date of the *Screening Review*;
    - iv. the disposition of the *Screening Review*, including the amount to be paid; and
    - v. the reasons for the disposition.



- (b) If applicable, the decision shall include the amount of the *Administrative Penalty*, any administrative fees to be paid and the final due date for payment.
  - (c) The *Screening Officer* shall serve a copy of the *Screening Decision* on the *Person* subject to the *Penalty Orders* soon as practical after the *Screening Decision* is made.
- (4) If the *Penalty Order* is not cancelled after a *Screening Review*, the *Person* shall pay the *Administrative Penalty* within 30 days after the date of the decision by the *Screening Officer* if no request for a *Review* of a *Screening Decision* by a *Hearing Officer* is submitted in accordance with this by-law.

## **8. FAIL TO REQUEST REVIEW OR EXTENSION OF TIME TO REQUEST A REVIEW**

- (1) Where a *Person* fails to request a *Review* in accordance with subsection 5(1) of this By-law or an extension of time in accordance with subsection 6(1) of this By-law, the *Person* shall be deemed to have waived the right to a screening and hearing and the *Administrative Penalty* shall not be subject to review.

## **9. FAIL TO APPEAR FOR SCREENING REVIEW**

- (1) Where the *Person* subject to a *Penalty Order* fails to appear at the time and date scheduled for a *Screening Review*:
  - (a) the *Person* shall be deemed to have abandoned the request for a *Screening Review* and is deemed to have waived their right to make submissions;
  - (b) the *Administrative Penalty* and any administrative fees shall be deemed to be confirmed;
  - (c) the *Administrative Penalty* and any administrative fees shall not be subject to review; and
- (2) The *Person* shall pay an additional fee, which is established and outlined in subsection 14(2)3 of the *Regulation* as it appeared on the date of the contravention, but which does affect the amount mentioned in paragraph 6 of subsection 6(1) of the *Regulation*.
- (3) If the *Screening Officer* determines that, in relation to the *Screening Review*, the *Person* subject to the *Penalty Order* has engaged in disorderly or abusive behavior toward the *Screening Officer* or any other *Person*, or if the *Person* refuses to effectively participate in the *Screening Review*, the *Screening Officer* may deem the *Person* to have abandoned the *Screening Review* and thereupon the *Administrative Penalty Amount* specified in the *Penalty Order* will be deemed to be confirmed and payable by the *Person*.

## **10. REVIEW OF SCREENING DECISION BY HEARING OFFICER**

- (1) A *Person* who has received a *Screening Decision* may request a *Review*

- of the *Screening Decision* by a *Hearing Officer* within 30 days after the *Deemed Service Date* of the *Screening Decision* by filing in the prescribed manner a *Request for Hearing Officer Review Form*.
- (2) Where a *Request for Hearing Officer Review Form* is not received within 30 days after the *Deemed Served Date* of the *Screening Decision* in the manner prescribed by the *Director*, the *Administrative Penalty* shall be deemed to be confirmed.
  - (3) Upon receipt of a *Request for Hearing Officer Review Form*, the *Director* shall determine the format to be used for the *Review* in accordance with the *Guidelines for Reviews*.
    - (a) The *Director* shall refuse to accept a *Request for Hearing Officer Review Form* if it is not complete, is illegible or is not filed in the prescribed manner.
    - (b) A Hearing Review shall not be conducted if a *Request for Hearing Officer Review Form* is refused, and
      - i. the *Screening Decision* shall be deemed confirmed and the *Administrative Penalty Amount* pursuant to the *Screening Decision* is due and payable; and
      - ii. the *Screening Decision* is final and shall not be subject to any further review.
  - (4) The *Person* requesting a *Review* of the *Screening Decision* shall be notified by the *Screening Officer*:
    - (a) of the date and time of the *Review*; and
    - (b) of the manner in which the *Review* will be conducted.
  - (5) If a *Person* subject to a *Penalty Order* that was subject to a *Screening Decision* does not file a *Request for Hearing Officer Review Form* in accordance with this by-law:
    - (a) the *Person* shall be deemed to have waived the right to request a *Hearing Officer Review*;
    - (b) the *Screening Decision* shall be deemed to be confirmed, and the *Administrative Penalty Amount* pursuant to the *Screening Decision* is due and payable; and
    - (c) the *Screening Decision* is final.
  - (6) The *Hearing Officer* may request such information from a *Person* as the *Hearing Officer* considers relevant to the request to *Review* the *Screening Decision*.
  - (7) Written submissions to a *Hearing Officer* related to a scheduled *Review* of a *Screening Decision* and requests to participate in the review concerned shall be submitted to the *Hearing Officer* by 12:00 noon, one *business day* prior to the *Review*.
  - (8) A *Hearing Officer* shall not make any decision respecting a *Review* of the *Screening Decision* unless the *Hearing Officer* has given the

*Person* and the *County* an opportunity to be heard.

- (9) A *Hearing Officer* shall determine whether the decision of the *Screening Officer* was reasonable and, in making this determination, may consider the following information, if available, in the conduct of a *Review*:
- (a) Photographs or images taken by the camera system or enforcement system, as applicable.
  - (b) Statements, including certified statements, made by the *Officer* who imposed the *Penalty Order*.
  - (c) Documents, including certified documents, setting out the name and address of the *Person* who is subject to the order, a description of the permit and the number plate of the motor *Vehicle*.
  - (d) Statements by the appellant made either in writing or in the manner in which the appeal is conducted.
  - (e) Statements by or on behalf of the *County* made either in writing or in the manner in which the appeal is conducted.
  - (f) Any other information, materials or submissions that the *Screening Officer* or *Hearing Officer* considers to be credible or trustworthy in the circumstances.
- (10) No witnesses shall be called in a review of the *Screening Decision*.
- (11) The decision of the *Hearing Officer* is final and not subject to review.

## **11. EXTENSION OF TIME TO REQUEST REVIEW**

- (1) A *Person* may request that the *Hearing Officer* extend the time to request a review of the *Screening Decision* by filing in the prescribed manner a *Request for Extension Form*. The request must be received within 45 days after the *Deemed Service Date* of the *Screening Decision*, failing which, the *Screening Decision* shall be deemed to be confirmed.
- (a) A *Person* subject to a *Penalty Order* and seeking an extension of time may file, along with the *Request for Extension Form*, written submissions, and other documents in support of the request.
  - (b) The *Director* shall refuse to accept a *Request for Extension Form* if it is not complete, is illegible or is not filed in the prescribed manner.
  - (c) A *Hearing Review* shall not be conducted if a *Request for Extension Form* is refused, and the *Administrative Penalty* amount remains due and payable in accordance with the *Penalty Order*.
- (2) The *Hearing Officer* may:
- (a) request such information from a *Person* as the *Hearing Officer* considers relevant to a request to extend the time to request a *Review* of the *Screening Decision*; and
  - (b) extend the time to request a *Review* of the *Screening Decision* when the

*Person* requesting the extension demonstrates, on a balance of probabilities, extenuating circumstances for failing to take action that warrants the extension of time.

- (3) Where an extension of time to request a *Review* is not granted by the *Hearing Officer*, the *Screening Decision* shall be deemed to be confirmed and not subject to further review.
- (4) A *Request for Extension Form to Review* by a *Hearing Officer* shall include the *Penalty Order* number, the *Person's* contact information and the reason the *Person* requires an extension of time to request a *Review* of the *Screening Decision*.
- (5) The *Hearing Officer* will only consider the request for extension and not the decision of the *Screening Officer*.

## **12. DECISION OF THE HEARING OFFICER**

- (1) On a review of a *Screening Decision*, the *Hearing Officer* may confirm the *Screening Decision*, or may cancel, reduce or extend the time for payment of the *Administrative Penalty*, including any administrative fees, on the following grounds:
  - (a) where the *Person* establishes, on the balance of probabilities, that the *Person* did not commit the act as described in the *Penalty Order*; or
  - (b) the cancellation, reduction or extension of the time for payment of the *Administrative Penalty*, including any administrative fees, is necessary to reduce financial hardship.
  - (c) set aside the *Penalty Order* if the *Hearing Officer* becomes aware, before issuing a final decision, that the *Person* who is subject to the *Penalty Order* is charged with an offence under the *Highway Traffic Act* in respect of the same *Contravention*; or
  - (d) For reasons outlined in the *Guidelines for Reviews*
- (2) Where a *Hearing Officer* decides to vary the *Administrative Penalty Amount*, the *Administrative Penalty Amount* shall be varied in accordance with the rules in subsection 14(2) of the *Regulation*.
- (3) The *Hearing Officer's* decision shall be issued to the *Person* at the time of the *Review* and thereafter, via mail, *email* or facsimile using the contact information provided by the *Person*.
- (4) If the *Penalty Order* is not cancelled by the *Hearing Officer*, the *Person* shall pay the *Administrative Penalty* within 30 days after the date of the decision by the *Hearing Officer*.
- (5) The decision of the *Hearing Officer* is final and shall not be subject to any further review.

## **13. FAIL TO REQUEST REVIEW OR EXTENSION OF TIME TO REQUEST A REVIEW**

- (1) Where a *Person* fails to request a *Review* of the *Screening Decision* or extension of time to have a *Review* before the *Hearing Officer* in accordance with this By-law.
  - (a) the *Person* shall be deemed to have waived the right to a hearing;
  - (b) the *Screening Decision*, the *Administrative Penalty* and any administration fees shall be deemed to be confirmed; and
  - (c) the *Screening Decision*, the *Administrative Penalty* and any administrative fees shall not be subject to any further review.

#### **14. FAIL TO APPEAR FOR REVIEW OF SCREENING DECISION**

- (1) Where a *Person* fails to Appear for a *Review* of a *Screening Decision* by the *Hearing Officer*:
  - (a) the *Person* shall be deemed to have abandoned the hearing;
  - (b) the *Screening Decision*, *Administrative Penalty* and any administration fees shall be deemed to be confirmed;
  - (c) the *Screening Decision*, *Administrative Penalty* any administration fees shall not be the subject of any further review; and
  - (d) the *Person* shall pay an additional fee, which is established and outlined in subsection 14(2)3 of the *Regulation* as it appeared on the date of the *contravention*, but which does affect the amount mentioned in paragraph 6 of subsection 6(1) of the *Regulation*.
- (2) Should a *Person* fail to Appear at the *Review* by the *Hearing Officer*, the *Person* shall be sent a notice setting out the *Administrative Penalty*, any administrative fees to be paid and the final due date for payment.
- (3) If the *Hearing Officer* determines that, in relation to the Hearing Review, the *Person* subject to the *Penalty Order* has engaged in disorderly or abusive behavior toward the *Hearing Officer* or any other *Person*, or if the *Person* refuses to effectively participate in the Hearing Review, the *Hearing Officer* may deem the *Person* to have abandoned the Hearing Review and thereupon the *Administrative Penalty* Amount specified in the *Penalty Order* will be deemed to be confirmed and payable by the *Person*.

#### **15. EXTENSION OF TIME TO PAY**

- (1) A *Person* who receives a *Penalty Order* and is appearing before the *Screening Officer* or *Hearing Officer* may request an extension of time to pay the *Administrative Penalty* beyond the dates established under subsection 7(4) and 12(4) of this By-law.
- (2) The *Screening Officer* or *Hearing Officer* may extend the time for payment of an *Administrative Penalty* taking into consideration such factors as:
  - (a) the amount of the *Administrative Penalty* and any administrative fees; and;



- (b) whether the *Person* is employed, a student, retired or other circumstances that would render the payment an undue hardship as outlined in section 17 of this By-law;
  - (c) for reasons outlined in the *Guidelines for Reviews*.
- (3) The extension of time shall not exceed the time period established by the *Screening Officer* or *Hearing Officer* from the date of the *Screening Officer* or *Hearing Officer's* review, as the case may be.
- (4) If a *Person* is granted an extension of time to pay, the *Screening Officer* or *Hearing Officer* shall record the extension so that the *County's* records can be updated accordingly, as the case may be.

## **16. PAYMENT PLANS**

- (1) If a *Screening Officer* or *Hearing Officer* considers it fair and appropriate in the circumstances, the *Screening Officer* or *Hearing Officer* may approve a *Payment Plan* beyond the dates established under subsections 7(4) and 12(4) of this By-law. The request for a *Payment Plan* may be directed to the *Screening Officer* or *Hearing Officer* during the *Screening* or *Hearing Review*.
- (2) The approval of a *Payment Plan* by a *Screening Officer* or *Hearing Officer* may be conditional on the payment of a specified amount or amounts of the *Administrative Penalty* amount being made on or before a specified date or dates.
- (3) If the *Owner* fails to comply with the conditions imposed for a *Payment Plan*, the *Payment Plan* becomes null and void and the total amount or, if partial payment(s) have been made, the balance owing, become due and payable to the *County* forthwith.

## **17. UNDUE FINANCIAL HARDSHIP**

- (1) The *Screening Officer* or *Hearing Officer* may excuse a *Person* from paying all or part of the *Administrative Penalty*, including any administrative fees, if requiring the *Person* to do so would cause undue financial hardship.
- (2) Any *Person* claiming undue financial hardship must provide documented proof substantiating financial hardship in accordance with the *Guidelines for Reviews*. All information and documentation shall be treated in a confidential manner.

## **18. JURISDICTION OF SCREENING AND HEARING OFFICER**

- (1) The *Screening Officer* or *Hearing Officer* has no 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.

## **19. SERVICE OF DOCUMENTS**

- (1) A document, notice, or decision served pursuant to this by-law may be



served:

- a) By personally delivering a copy to the *Person* to whom it is addressed, in which case service is effective immediately;
  - b) By registered mail, regular mail or courier to the *Person's* last known address, in which case service is deemed effective on the (7<sup>th</sup>) seventh day following the date that the copy is sent;
  - c) By facsimile transmission to the *Person's* last known facsimile transmission number, in which case service is effective immediately upon the conclusion of the copy being transmitted; and
  - d) By *email* to the *Person's* last known *email* address, in which case service is effective immediately upon the conclusion of the sending of the *email*.
- (2) A *Person's* last known address, facsimile transmission number, and *email* address is that which was provided by the *Person* to the *County* as may be required by a form, practice, policy or guideline under this by-law.
  - (3) Any form, notice or document to be served or filed upon the *County* in respect of this by-law shall be in writing and delivered in the manner directed by the *Director* for the receipt and filing of such forms, notices or documents.
  - (4) A *Penalty Order* may be served by sending the *Penalty Order* by mail or courier to the most recent address that appears on the MTO's records for the *Owner*, in which case service is deemed effective on the (7<sup>th</sup>) seventh day following the day on which it was mailed or couriered.
  - (5) Any decision of a *Screening Officer* or *Hearing Officer* may be served upon the *Person* requesting the decision by mail, courier or *email* to the address or *email* address last provided to the *County* by the *Person*.

## **20. OFFENCE**

- (1) 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.
- (2) 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.
- (3) Every *Person* who contravenes subsections 20(1) and 20(2) 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*.

## **21. ADMINISTRATION**

- (1) The *Director* shall administer this By-law and establish any standards, practices, policies, guidelines and procedures necessary to implement this By-law and may amend such standards, practices, policies, guidelines and procedures from time to time as the *Director* deems necessary and advisable, without amendment to this By-law. Such standards, practices, policies, guidelines and procedures may include,

but are not limited to:

- (a) policies and procedures to prevent political interference in the administration of the system;
  - (b) guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur;
  - (c) policies and procedures regarding financial management and reporting; and
  - (d) procedures for the filing and processing of complaints made by the public with respect to the administration of the system.
- (2) The *Director* shall prescribe all forms and notices, including the *Penalty Order*, necessary to implement this By-law and may amend such forms and notices from time to time as the *Director* deems necessary, without amendment to this By-law. The *Director's* authority includes the authority to prescribe forms, the information required in a form, the manner in which a form may be filed and to determine the manner in which additional materials may be filed and includes the authority to take the steps required to enforce *Penalty Orders* pursuant to the *Highway Traffic Act* and the *Regulation*.
  - (3) An *Administrative Penalty* that is deemed to be confirmed is due and payable and constitutes a debt to the *County*.
  - (4) The *County* may recover the amount of unpaid Administrative Penalties, including administration fees as outlined in the *Regulation* and unpaid Administrative Penalties or costs, by action, or by referring the *Administrative Penalty* to the Ministry of the Attorney-General's Defaulted Fines Control Centre, which will subject the *Person* to restrictions of their *Motor Vehicle Permit*.
  - (5) If an extension of time to request a *Review* of the *Screening Decision* is granted by a *Hearing Officer*, the collection process available to the *County* in relation to the *Administrative Penalty* shall be suspended until such time as the matter is determined by the *Hearing Officer*.
  - (6) Where an *Administrative Penalty* is cancelled by a *Screening Officer* or *Hearing Officer*, any administrative fees are also cancelled.
  - (7) The *Director* may notify the Province of Ontario in the event of a default of a payment of a *Penalty Order* pursuant to this by-law and shall remit payment for amounts required by the Province of Ontario pursuant to the *Highway Traffic Act*.
  - (8) Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.

## 22. REFERENCES

- (1) References in this By-law to any legislation or by-law means as may

be amended or replaced from time to time and include any regulations thereunder.

- (2) The headings in this by-law are for convenience only and do not form part of this by-law.
- (3) This by-law may be referred to as the Automated Speed Enforcement By-law.

**23. SEVERABILITY**

- (1) In the event any provisions of this By-law are deemed invalid or void or to be of no force and effect, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

**23. REPEALS**

By-law Number 86-23 is hereby repealed upon passage of this By-law.

**READ** a first and second time, this 17<sup>th</sup> day of December 2024.

**READ** a third time and finally passed in Council, this this 17<sup>th</sup> day of December, 2024.

**THE CORPORATION OF THE COUNTY OF BRANT**

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David Bailey, Mayor

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Sunayana Katikapalli, Clerk

## SCHEDULE “A” TO BY-LAW 129-24

### **ADMINISTRATIVE PENALTY AMOUNTS FOR AUTOMATED SPEED ENFORCEMENT (Excerpts from HTA Ontario Regulation 355/22)**

6. (1) The amount of the *Administrative Penalty* shall be the sum of the following amounts:

1. In respect of a *contravention* of subsection 128 (1) of the Act, the amount determined in accordance with the following formula,

$$A \times B$$

in which,

“A” is the number of kilometres per hour by which the *Person* driving the motor *Vehicle* exceeds the speed limit set out in subsection 128 (1) of the Act, and

“B” is the penalty rate set out in Column 2 of Table 1 that is opposite the value of “A” described in Column 1 of Table 1.

5. \$8.25, to reflect costs incurred by the authorized *Person* to access the name and most recent address of the *Person* who is subject to the *Penalty Order*.

6. The amount determined under subsections (2) to (5) as applicable, to be credited to the victims’ justice fund account in accordance with section 19.

(2) For a *contravention* of subsection 128 (1) of the Act, the amount mentioned in paragraph 6 of subsection (1) is,

(a) if the amount determined under paragraph 1 of subsection (1) is \$1000 or less, the amount set out in Column 2 of Table 2 that is opposite the amount determined under paragraph 1 of subsection (1) described in Column 1 of Table 2; or

(b) if the amount determined under paragraph 1 of subsection (1) is greater than \$1000, the amount that is 25 per cent of that amount.

**TABLE 1**

Item	Column 1 Kilometres per hour over the maximum speed limit	Column 2 Penalty rate in community safety zone or school zone
1.	1 to 19 kilometres per hour over the maximum speed limit	\$5.00 per kilometre
2.	20 to 29 kilometres per hour over the maximum speed limit	\$7.50 per kilometre
3.	30 to 49 kilometres per hour over the maximum speed limit	\$12.00 per kilometre
4.	50 kilometres per hour or more over the maximum speed limit	\$19.50 per kilometre

## SCHEDULE “A” TO BY-LAW 129-24

### **ADMINISTRATIVE PENALTY AMOUNTS FOR AUTOMATED SPEED ENFORCEMENT (Excerpts from HTA Ontario Regulation 355/22)**

**TABLE 2**

Item	Column 1 Amount determined under paragraph 1 of subsection (1) of this section	Column 2 Amount mentioned in paragraph 6 of subsection (1) of this section
1.	\$0 - \$50	\$10
2.	\$51 - \$75	\$15
3.	\$76 - \$100	\$20
4.	\$101 - \$150	\$25
5.	\$151 - \$200	\$35
6.	\$201 - \$250	\$50
7.	\$251 - \$300	\$60
8.	\$301 - \$350	\$75
9.	\$351 - \$400	\$85
10.	\$401 - \$450	\$95
11.	\$451 - \$500	\$110
12.	\$501 - \$1000	\$125

### **Amount**

6.(1) The amount of the *Administrative Penalty* shall be the sum of the following amounts:

5. \$8.25, to reflect costs incurred by the authorized *Person* to access the name and most recent address of the *Person* who is subject to the *Penalty Order*.

### **Decisions**

14.(2)3. If the appellant failed to attend any stage of an appeal, in accordance with subsection 12(2), the amount of the penalty shall be increased by \$60.

14.(2)4. For greater certainty, an increase made under paragraph 3 does not affect the amount mentioned in paragraph 6 of subsection 6 (1).