

The Corporation of the Township of Huron-Kinloss



BY-LAW No.

2024 -

Being a By-Law to Establish a Comprehensive System of Administrative Monetary Penalties for the Township of Huron-Kinloss

WHEREAS Section 8(1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

WHEREAS the Township of Huron-Kinloss is authorized under section 434.1 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, to establish a system of administrative penalties for contraventions of municipal By-laws;

AND WHEREAS section 102.1 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may require a person to pay an Administrative Monetary Penalty if the municipality is satisfied that the person has failed to comply with any By-laws respecting the parking, standing or stopping of vehicles;

AND WHEREAS AND WHEREAS section 391.1 of the Municipal Act, 2001, c. 25, enables the municipality to pass By-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

AND WHEREAS section 434.2 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that an Administrative Monetary Penalty imposed by the municipality on a person constitutes a debt of the person to the municipality;

AND WHEREAS section 23.1 of the Municipal Act, 2001, c 25, authorizes a municipality to delegate its administrative and hearing powers;

AND WHEREAS the Council for the Township of Huron-Kinloss considers it desirable to enforce and seek compliance with the designated By-laws, or portions of those by-laws through the Administrative Monetary Penalty System;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows;

1. DEFINITIONS

For the purposes of this by-law:

"Administrative Fee" shall mean any fee specified in this By-law as prescribed in the Township's Consolidated Rates and Fees By-law;

"Administrative Monetary Penalty" shall mean an administrative penalty established by this By-law or set out in the attached Schedule(s) for a contravention of a **Designated By-law**;

"AMPS" shall mean the Administrative Monetary Penalty System;

“**Chief Administrative Officer**” shall mean the Chief Administrative Officer for the Township of Huron-Kinloss or any person designate by the Chief Administrative Officer to perform duties pursuant to the Administrative Monetary Penalty System;

“**Clerk**” shall mean the Municipal Clerk for the Township of Huron-Kinloss, their delegate or anyone designated by the Clerk to perform duties pursuant to the Administrative Monetary Penalty System;

“**Council**” shall mean the Council of the Township of Huron-Kinloss;

“**Day**” shall mean any calendar day;

“**Designated By-law**” shall mean a By-law or a part or provision of a By-law, that is designated under this By-law and is listed in the attached Schedule “A” to which the **AMPS** applies;

“**Hearing Decision**” shall mean a decision that contains a decision made by a **Hearing Officer**;

“**Hearing Officer**” shall mean a person appointed by **Council** to perform the duties of a **Hearing Officer** for the purposes of this By-law;

“**Holiday**” shall mean a Saturday, Sunday, any statutory holiday in the Province of Ontario or any **Day** the offices for the Township are officially closed for business;

“**Late Payment Fee**” shall mean an **Administrative Fee** established by the Township of Huron-Kinloss from time to time in respect of a **Person’s** failure to pay an **Administrative Monetary Penalty** within the time prescribed in this By-law, as prescribed in the Township’s Consolidated Rates and Fees By-law;

“**NSF Fee**” shall mean an **Administrative Fee** established by the Township of Huron-Kinloss from time to time in respect of payment by negotiable instrument received by the Township from a **Person** in payment of any **Administrative Monetary Penalty** or **Administrative Fee**, for which there are insufficient funds available in the account on which the instrument was drawn, as prescribed in the Township’s Consolidated Rates and Fees By-law;

“**Officer**” shall mean any person authorized by the Township to enforce by-laws and includes Municipal Law Enforcement Officer(s), Police Officer, Fire Chief or designate appointed by the Township to administer and enforce this By-law’

“**Penalty Notice**” shall mean a notice given to a **Person** pursuant to section 3 of this By-law;

“**Penalty Notice Date**” shall mean means the date of the contravention specified on the Penalty Notice, in accordance with Section 3.2 of this By-law;

“**Penalty Notice Number**” shall mean the reference numbers specified on the Penalty Notice, in accordance with section 3.2 of this By-law;

“**Person**” shall include an individual or business name, sole proprietorship, corporation, partnership, or limited partnership, or authorized representative thereof;

“**Power of Decision**” shall mean a power or right conferred by or under this 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 **Screening Officer**, in respect of a request to review an **Administrative Monetary Penalty**;
- b) In the case of a **Hearing Officer**, in respect of a request to review a **Screening**

Officer Decision;

“Regulation” shall mean Ontario Regulation 333/07 under the *Municipal Act, 2001, S.O. 2001, c. 25, as amended*;

“Request for Review by Hearing Officer” shall mean the request made in accordance with Section 6 of this By-law for the review of a **Screening Decision**;

“Request for Review by Screening Officer” shall mean the request made in accordance with Section 5 of this By-law for the review of a **Penalty Notice**;

“Screening Decision” shall mean a notice which contains the decision of a **Screening Officer**;

“Screening Officer” shall mean a Person appointed **Council** to perform the duties of a **Screening Officer** for the purposes of this By-law;

“Tax Roll Address” shall mean the mailing address and contact information for the owner of the property that appears in the Township’s municipal tax assessment records;

“Township” shall mean The Corporation of the Township of Huron-Kinloss.

2. APPLICABILITY

- 2.1. This By-law applies to, and only to, a **Designated By-law**.
- 2.2. This By-law shall apply to any contravention of a **Designated By-law** listed in Schedule “A” of this By-law. The short form wording to be used for a contravention of a **Designated By-law** and the **Administrative Monetary Penalty** imposed are set out in Schedule “A” of this by-law.
- 2.3. The *Provincial Offences Act, R.S.O. 1990, c.P.33, as amended* will continue to apply to contraventions of a **Designated By-law**, except that no **Person** that is issued a **Penalty Notice** under this By-law in respect of a contravention of a **Designated By-law** shall be charged with an offence in respect of the same contravention under the *Provincial Offences Act, R.S.O. 1990, c.P.33, as amended*.

3. PENALTY NOTICES

- 3.1. An **Officer** who has reason to believe that a **Person** has contravened any **Designated By-law** may issue a **Penalty Notice** to that **Person**.
- 3.2. A **Penalty Notice** shall include the following information:
 - a) the **Penalty Notice Date**;
 - b) the **Penalty Notice Number**;
 - c) the date on which the **Administrative Monetary Penalty** is due and payable, fifteen (15) days from service of the **Penalty Notice**;
 - d) the identification number and signature of the Officer;
 - e) the name of the **Person** penalized;
 - f) the contravention wording as listed in the attached Schedules, or other particulars reasonably sufficient to indicate the contravention;
 - g) the amount of the **Administrative Monetary Penalty**;
 - h) the vehicle license plate number or vehicle identification number if applicable;

- i) the option(s) available to dispute the **Penalty Notice** with a **Screening Officer** and/or **Hearing Officer**;
 - j) such additional information as the **Clerk** determines is appropriate, respecting the process by which a **Person** may exercise the right to request a review of the **Administrative Monetary Penalty**;
 - k) a statement advising that an unpaid **Administrative Monetary Penalty**, including any applicable **Administrative Fee(s)**, will constitute a debt of the **Person** to the **Township** unless cancelled pursuant to a review; and
 - l) method of service of the Penalty.
- 3.3. Every **Person** who contravenes a provision of a **Designated By-law** shall upon issuance of a **Penalty Notice** be liable to pay the **Township** an **Administrative Monetary Penalty** in the amount specified in the attached Schedule "A" to this By-law within 15 days of the **Penalty Notice Date**.
- 3.4. No Officer shall accept payment in respect of an **Administrative Monetary Penalty** or associated **Administrative Fee**.
- 3.5. Where a **Penalty Notice** is issued in respect of a contravention of a **Designated By-law** for which Owners of a property are responsible, the **Penalty Notice** shall include the name of all **Persons** who are registered owners of such property, and such **Persons** shall be jointly and severally liable for the **Penalty Notice**.

4. SERVICE OF DOCUMENTS

- 4.1. 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) Immediately when a copy is delivered to the **Person** contravening the By-law at the time of the offense;
 - b) Immediately, when a copy is delivered to the **Person** to whom it is addressed;
 - c) On the fifth (5th) day following the date a copy is sent by registered mail or regular mail to the **Person's** last known address;
 - d) Immediately upon the conclusion and sent confirmation of a copy by facsimile transmission to the **Person's** last known facsimile transmission number;
 - e) Immediately upon sending a copy by electronic mail (i.e. email transmission) to the **Person's** last known electronic mail address; or
 - f) Immediately when posted at **Person's** last known address or on a vehicle registered to the **Person's** name.
- 4.2. For the purposes of subsections 4.1 (c, d, e, f,) of this By-law, a **Person's** last known address, facsimile number and electronic mail address may include an address, facsimile number and email address provided by the **Person** to the **Township**, including the **Tax Roll Address**, information provided in an application for a licence made by a **Person** under a **Township** licensing By-law or as provided in writing or in a form supplied by the **Township** for the purposes of administration of this By-law.
- 4.3. In addition to the service methods in Section 4.1, an Officer may serve the **Penalty Notice** on a **Person** who is the Owner of a property that is in contravention of a **Designated By-law**, by delivering it personally to the **Person** having care and control of the property and then sending a copy by regular mail to the **Tax Roll Address**.
- 4.4. Service of a **Penalty Notice** under Section 4.3 is effective on the fifth (5th) day after a copy is sent by regular mail to the **Tax Roll Address**.

5. REVIEW BY A SCREENING OFFICER

- 5.1. A **Person** who is given a **Penalty Notice** may request that the **Administrative Monetary Penalty** be reviewed by a **Screening Officer** and shall do so within 15 days after the **Penalty Notice Date**.
- 5.2. If a **Person** does not request a review within the time limit set out in section 5.1, a **Person** may request that the **Screening Officer** extend the time to request a review within 30 days after the **Penalty Notice Date**.
- 5.3. A **Person's** right to request a review or to request an extension of time to request a review are exercised by a submission in writing by email or other electronic submission, fax transmission, or in person on such form as prescribed by the **Clerk**.
- 5.4. A **Person's** right to request an extension of time in section 5.2 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 Monetary Penalty** including any **Administrative Fee(s)**, shall be deemed to be affirmed on the sixteenth (16th) day after the **Penalty Notice Date**; and
 - c) The **Administrative Monetary Penalty** including any **Administrative Fee(s)** is not subject to any further review, including review by any court.
- 5.5. A request for review by a **Screening Officer** or a request for an extension of time to request a Screening Review shall only be scheduled by the **Township** if the **Person** has exercised their right to request a review or an extension of time to request a review within the time limits set out in section 5.1 and 5.2 of this By-law.
- 5.6. For the purposes of Section 5.2, the **Screening Officer** may only extend the time to request a review of an **Administrative Monetary 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 5.1 of this By-law.
- 5.7. Where an extension of time is not granted by the **Screening Officer** the **Administrative Monetary Penalty**, including any **Administrative Fee(s)**, shall be deemed to be affirmed on the sixteenth (16th) day after the **Penalty Notice Date**.
- 5.8. Where a **Person** fails to attend at the time and place scheduled for a review by the **Screening Officer**, or fails to remain at such place until the **Screening Officer** has made a **Screening Decision** respecting the review, or where the **Person** fails to provide requested documentation in accordance with a request by a **Screening Officer**:
 - a) the **Person** shall be deemed to have abandoned the request for the review;
 - b) the **Person** shall pay to the **Township** a Screening Non-Appearance Fee and any other applicable **Administrative Fee(s)**;
 - c) the **Administrative Monetary Penalty** and any **Administrative Fee(s)** shall be deemed to be affirmed on the dates that was scheduled for the review;
 - d) the **Administrative Monetary Penalty** and any **Administrative Fee(s)** is not subject to any further review, including review by any Court.
- 5.9. On Review of an **Administrative Monetary Penalty**, the **Screening Officer** may:
 - a) affirm the **Administrative Monetary Penalty**; or
 - b) cancel, reduce or extend the time for payment of the **Administrative Monetary Penalty**, including any **Administrative Fee(s)**, on the following

grounds:

- i) where the **Person** establishes on the balance of probabilities that they did not contravene the **Designated By-law(s)** as described in the **Penalty Notice**; or
- ii) where the **Person** establishes on the balance of probabilities that the cancellation, reduction or extension of time for payment of the **Administrative Monetary Penalty**, including **Administrative Fee(s)**, is necessary to relieve any undue hardship.

5.10. After a review by a **Screening Officer**, the **Screening Officer** shall deliver a **Screening Decision** to the **Person** in accordance with Section 4 of this By-law.

5.11. For clarity, a **Screening Officer** has no authority 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.

6. REVIEW BY A HEARING OFFICER

6.1. A **Person** may request a review of a **Screening Decision** by a **Hearing Officer** and shall do so within 15 days after the **Screening Decision** has been delivered to the **Person**.

6.2. If a **Person** does not request a review within the time limit set out in section 6.1, a **Person** may request that the **Hearing Officer** extend the time to request a review within 30 days after the **Screening Decision** has been delivered to the **Person**.

6.3. A **Person's** right to request a review of a **Screening Decision** or to request an extension of time to request a review of a **Screening Decision** are exercised by a submission in writing by email or other electronic submission, fax transmission, or in person on such form as prescribed by the **Clerk**.

6.4. A **Person's** right to request an extension of time in section 6.2 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 review by the **Hearing Officer**;
- b) The **Screening Decision** which includes, the **Administrative Monetary Penalty** and any **Administrative Fee(s)** shall be deemed to be affirmed; and
- c) The **Screening Decision**, which includes the **Administrative Monetary Penalty** and any **Administrative Fee(s)** is not subject to any further review, including review by any court.

6.5. A request for review by a **Hearing Officer** or a request for an extension of time to request a **Screening Decision** Review shall only be scheduled by the **Township** if the **Person** has exercised their right to request a review or an extension of time to request a review within the time limits set out in section 6.1 and 6.2 of this By-law.

6.6. For the purposes of Section 6.2, the **Hearing 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 that prevented the **Person** from exercising the right to request a review in the timeframe set out in section 6.1 of this By-law.

6.7. Where an extension of time is not granted by the **Hearing Officer** the **Screening Decision** which includes the **Administrative Monetary Penalty**, including any **Administrative Fee(s)** shall be deemed to be affirmed and shall not be subject to any further review, including review by any court.

- 6.8. Where a **Person** fails to attend at the time and place scheduled for a review by the **Hearing Officer**, or fails to remain at such place until the **Hearing Officer** has made a decision respecting the review, or where the **Person** fails to provide requested documentation in accordance with a request by a **Hearing Officer**:
- a) the **Person** shall be deemed to have abandoned the request for the review;
 - b) the **Person** shall pay to the **Township** a Screening Non-Appearance Fee and any other applicable **Administrative Fee(s)**;
 - c) the **Administrative Monetary Penalty** and any **Administrative Fee(s)** shall be deemed to be affirmed on the dates that was scheduled for the review;
 - d) the **Administrative Monetary Penalty** and any **Administrative Fee(s)** not subject to any further review, including review by any Court.
- 6.9. On a Review of a **Screening Decision**, the **Hearing Officer** may:
- a) confirm the **Screening Decision**; or
 - b) cancel, reduce or extend the time for payment of the **Administrative Monetary Penalty**, including any **Administrative Fee(s)**, on the following grounds:
 - i) where the **Person** establishes on the balance of probabilities that they did not contravene the **Designated By-law(s)** as described in the **Penalty Notice**; or
 - ii) where the **Person** establishes on the balance of probabilities that the cancellation, reduction or extension of time for payment of the **Administrative Monetary Penalty**, including **Administrative Fee(s)**, is necessary to relieve any undue hardship.
- 6.10. A **Hearing Officer** shall not make any decision respecting a review of a **Screening Decision** unless the **Hearing Officer** has given the **Person** and a representative of the **Township** an opportunity to be heard at the time and place scheduled for the Hearing.
- 6.11. All Hearings by a **Hearing Officer** shall be conducted in accordance with the *Statutory Powers and Procedures Act, R.S.O. 1990, c. S.22*, as amended.
- 6.12. The Parties to a Review by a **Hearing Officer** shall be the **Person** seeking review and the **Township**, who may be represented by the **Clerk**, a **Screening Officer**, an Officer, the Municipal Solicitor, or a delegate of any of the aforementioned **persons**.
- 6.13. After a review by a **Hearing Officer**, the **Hearing Officer** shall deliver a **Hearing Decision** to the **Person** in accordance with Section 4 of this By-law.
- 6.14. The **Hearing Decision** is final, and shall not be subject to any further review, including by a review by any Court.
- 6.15. For Clarity, a **Hearing Officer** has no authority 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.

7. ESTABLISHING AND APPOINTMENT OF SCREENING AND HEARING OFFICERS

- 7.1. The position of **Screening Officer** is established for the purpose of exercising the Power of Decision in the review of an **Administrative Monetary Penalty** in accordance with this By-law and the **Regulation**.

- 7.2. The following are not eligible for appointment as a **Screening Officer**:
- a) A member of **Council**,
 - b) An **Officer**,
 - c) A relative of a person referenced in Section 7.2 (a) or 7.2 (b).
- 7.3. The position of **Hearing Officer** is established for the purpose of exercising the Power of Decision in the review of a **Screening Decision** in accordance with this By-law and the **Regulation**.
- 7.4. The following are not eligible for appointment as a **Hearing Officer**:
- a) A member of **Council**,
 - b) An employee of the **Township**,
 - c) An **Officer**,
 - d) A relative of a person referenced in Section 7.4 (a), 7.4 (b) or 7.4 (c),
 - e) A person indebted to the **Township** other than:
 - i) In respect of current real property taxes; or
 - ii) Pursuant to an agreement with the **Township**, the terms with which the person is in compliance.

- 7.5. A **Screening Officer** and a **Hearing Officer** shall be appointed by **Council** on the recommendation of the **Chief Administrative Officer** which recommendation shall give preference to an eligible candidate:
- a) With knowledge of and experience in administrative law; and
 - b) With good communications and interpersonal skills.
- 7.6. A **Screening Officer** and a **Hearing Officer** may hold office for the term or remainder of the term of **Council** that appointed the **Screening Officer** and **Hearing Officer** and thereafter until a successor is appointed.
- 7.7. A **Screening Officer** and a **Hearing Officer** shall be remunerated at the rate from time to time established by **Council**.
- 7.8. No **Person** shall attempt, directly or indirectly, to 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 a **Person** who is entitled to be heard in the proceeding or the **Person's** lawyer, licensed representative or authorized agent and only by that **Person** or the **Person's** lawyer, licensed representative or authorized agent during the screening or hearing of the proceeding in which the issue arises.
- 7.9. Section 7.8 does not prevent a **Screening Officer** or **Hearing Officer** from seeking and receiving legal advice.
- 7.10. Sections 7.6 and 7.7, do not apply to a **Screening Officer** that is an employee of the **Township**.

8. GENERAL PROVISIONS

- 8.1. The **Clerk** or their designate shall administer this By-law and establish any additional practices, policies and procedures necessary to implement this By-law and may amend such practices, policies and procedures from time to time as they deem necessary, without amendment to this By-law.
- 8.2. The **Clerk** or their designate shall prescribe all forms and notices necessary to implement this By-law and may amend such forms and notices from time to time as they deem necessary, without amendments to this By-law.
- 8.3. An **Administrative Monetary Penalty**, including any **Administrative Fee(s)**, that is confirmed or reduced, or in respect of which the time for payment has been extended is due and payable and constitutes a debt to the **Township** owed by the **Person** to whom the **Penalty Notice** was given.
- 8.4. An **Administrative Monetary Penalty**, including any **Administrative Fee(s)**, that is not paid within 15 days after it becomes due and payable shall be deemed to be unpaid taxes in accordance with section 434.2 *Municipal Act, 2001, S.O. 2001, c.25*, as amended and the outstanding amount shall be added to the tax roll and collected in the same manner as municipal taxes.
- 8.5. Where an **Administrative Monetary Penalty** is not paid by the date on which the **Administrative Monetary Penalty** is due and payable; the **Person** shall pay to the **Township** a **Late Payment Fee**, in addition to the **Administrative Monetary Penalty** and any applicable **Administrative Fee(s)**.
- 8.6. Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.
- 8.7. Where a **Person** makes payments to the **Township** of any **Administrative Monetary Penalty**, **Administrative Fee(s)** or **Late Payment Fee(s)**, by

negotiable instrument, for which there are insufficient funds available in the account on which the instrument is drawn, the **Person** shall pay to the **Township** the **NSF Fee** set out in the current Consolidated Rates and Fees By-law.

- 8.8. The **Chief Administrative Officer** or designate may cancel an **Administrative Monetary Penalty**, including any **Administrative Fee**, where the **Penalty Notice** was issued to a **Person** due to an error made by the **Township**.
- 8.9. The **Chief Administrative Officer** or designate may cancel any **Administrative Fee** without cancelling the **Administrative Monetary Penalty**, where the fee was imposed as a result of an error made by the **Township**.
- 8.10. Any schedule attached to this By-law forms part of this By-law.

9. SEVERABILITY

- 9.1. Each and every provision of the By-law is severable and if any provisions of this By-Law should, for any reason, be declared invalid or unenforceable by any Court, it is the intention and desire of this **Council** that each and every of the then remaining provisions hereof shall remain in full force and effect and be interpreted in such a manner as the context permits in order to carry out their intent.

10. EFFECTIVE DATE

- 10.1. That this by-law shall come into full force and effect upon passage.

11. SHORT TITLE

- 11.1. That this by-law may be cited as the “Administrative Monetary Penalty System (AMPS) By-law”.

READ a FIRST and SECOND TIME this 15th day of April, 2024.

READ a THIRD TIME and FINALLY PASSED this 15th day of April, 2024.

Mayor

Clerk