



## The Corporation of Town of New Tecumseth

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# Setting Aside/Cancellation of Penalty Orders Policy (ASE)

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**Policy Type:** Corporate

**Policy No.:** AC-POL-003-2025

**Name of Dept:** Clerks/Administration Dept

**Status:** Current

**Resolution No.:** 2025-192

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### 1. **Policy Statement**

This policy outlines procedures for Screening/Hearing Officers to follow when reviewing, setting aside, or cancelling automated speed enforcement penalties in accordance with the Administrative Penalty System By-Law.

### 2. **Purpose**

The purpose of this policy is to establish clear criteria for setting aside or cancelling penalty orders issued by Automated Speed Enforcement Cameras. It ensures fairness and accuracy in the enforcement process while allowing for legitimate exceptions or errors to be addressed.

### 3. **Scope**

This policy applies to all appointed Screening and Hearing Officers responsible for overseeing and managing the automated speed enforcement process for the Town of New Tecumseth.

### 4. **Definitions**

**Automated Speed Enforcement Camera (ASE)** - is the use of a device that consists of a camera, a speed measurement device and technology that operate in combination to result in images of motor vehicles being taken, and data recorded, when a motor vehicle travels on a roadway past the device at a rate of speed greater than the posted speed limit.

**Penalty Order**- A formal notice issued to the registered owner of a motor vehicle for a speeding violation that is detected by an automated speed enforcement camera under

Ontario Regulation 355/22.

**Administrative Penalty-** Means an administrative penalty imposed for a contravention of a designated By-Law, as set out in the Automated Speed Enforcement Administrative Penalty Systems By-Law.

**Contravention-** A failure to comply with a provision of the maximum posted speed limit.

**Penalty Amount:** means the total amount payable to the Town of New Tecumseth inclusive of any administrative penalties and associated fees.

**Setting Aside-**The process of cancelling or voiding a penalty order based on specific criteria or errors identified after review.

**Cancellation-**The formal removal or annulment of a penalty order due to a valid reason.

**Municipal By-Law-** The local law or regulation governing the enforcement of speed limits and penalties within the municipality which has been passed by Town Council.

**Review Process-**The procedure by which penalty orders are evaluated to determine if they should be vary, confirm or set aside.

**Screening Officer-** Municipal staff responsible for managing and ensuring fair application of the automated speed enforcement system including penalty order reviews as defined in subsection 10 (2) of Ontario Regulation 355/22.

**Hearing Officer -** Means a person appointed from time to time, to perform the functions of a hearing officer in accordance with By-law 2025-039 and the Ontario Regulation 355/22 of the Administrative Penalty System By-law.

**Jurisdiction-**The geographical area within the Town of New Tecumseth which the automated speed enforcement system and this policy is applicable.

**Owner-** In relation to a motor vehicle means the holder of the permit for the motor vehicle or if the motor vehicle permit consists of a vehicle portion and plate portion and different persons are name on each portion, the person whose name appears on the plate portion.

**Person-** Includes an individual or a corporation.

**Undue Financial Hardship-** Means a significant financial difficulty or expense and focuses on the resources and circumstances of the person owing an outstanding Penalty Amount.

**Authorized Agent-** Is an individual who is acting on behalf of the Owner and is present for a Screening/Hearing Review. The Owner has given express permission for this individual to act on their behalf by signing an “Authorization to Act as an Agent” form.

5. **Policy**

**5.1 Screening Review-**The applicant must submit a request to dispute the penalty order within 30 days of receiving the penalty notice. The applicant should follow the prescribed Screening Review process listed on the back of the Penalty Order.

**5.2 Setting Aside/Cancellation of Penalty Considerations-** A Screening /Hearing Officer shall only set aside a Penalty Order under the following circumstances:

a)The Penalty Order is incomplete.

b)The penalty order was not issued by an authorized person.

c) No corresponding information or evidence has been received from the processing centre (images /plate enlargement, MTO proof of ownership and the certified statement of the Officer.

d)There is no information regarding how or when to commence an appeal with the Penalty Order.

e)The image or images are not clear, do not set out the proper data, or the plate and jurisdiction can't be read clearly.

f) Information on the image does not match the information set out in the corresponding certified statement.

g)The location of the contravention is not identified as a Community Safety or School zone.

h)The make and model of the ASE system is not indicated in the certified statement.

i)The speed of the motor vehicle at the time of the contravention is not indicated in the penalty order.

j)The posted speed limit is not stated in the penalty order.

k)There is no marker in the image provided with the certified statement or the marker does not touch the motor vehicle.

l) There is no data included in the certified statement for the certificate of accuracy or the date stated is outside the time allowed.

m) There is no indication in the certified statement or that the signage, required by section 8 of the Regulation, was posted.

n) The person has credible and reliable evidence that the person was not the owner of the vehicle in question at the time of the contravention.

o) The person has proof the vehicle and/or vehicle plate in question was lost or stolen at the time of the contravention.

p) Where the vehicle in question was an emergency vehicle and falls within the exemptions outlined in section 128(13) of the Highway Traffic Act.

q) Financial Hardship application which requires supporting documentation. Proof of Income supplements can include (Old Age Security, Canada Pension, Ontario works, ODSP) CRA notice of assessments and/or bank statements.

r) The Screening officer if before the final decision is made in respect of an appeal, becomes aware that contrary to subsection 21.1(4) of the Highway Traffic Act the person who is the subject of the penalty order is charged with an offence under the act in respect to the same contravention, the officer shall set aside the penalty order

**5.3 Screening Officers Jurisdiction:** Screening Officers/ Hearing officers do not have 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.

**5.4 Screening Review Process Language:** Screening and Hearing Reviews will be conducted in English. Interpreter services will not be provided. The Owner shall arrange for an interpreter if one is required. This shall be at applicants expense. Interpreters must be at least 16 years of age or older

**5.5 Screening Review Fees :** There are no fees associated with booking a screening review. Applicants are expected to be on time for their scheduled Screening Review with a ten minute grace period allowance. Where an Owner/Authorized Agent fails to attend the scheduled Screening or Hearing Review, the Screening or Hearing Officer shall affirm the Screening or Hearing Decision, including adding the \$60.00 no-show fee, and send a copy of the decision to the Owner/Authorized Agent.

**5.6 Representatives/Agents:** An owner may be represented by an authorized agent at a screening review .Verbal Confirmation of an authorized agent will be accepted by a screening officer from the vehicle registered owner in the event an " Authorized to Act as an Agent form" has not been submitted prior to the screening review process

.Only persons who have submitted an "Authorized to Act as an Agent form" are permitted to speak to the matter on behalf of the owner during the review.

**5.7 Timeframe to Appeal Penalty Order:** An appeal of a penalty order shall be commenced within 30 days after the date on which service of the order effective date.

**5.8 Combining Proceedings:** Where an Owner or Authorized Agent has requested a screening for multiple penalty orders, the screening officer may only review one penalty order for each screening review time .Each penalty order shall be booked and heard separately.

**5.9 Photographic Audio or Video Recording Prohibited:** No person shall take or attempt to take a photograph ,video or recording by any means at any screening review.

**5.10 Options of Screening /Hearing Officer:** Following a Screening or Hearing Review, the Officer may vary, confirm or set aside the Penalty Order based on the information before them. Following a Screening Review, a Notice of Decision shall be issued outlining the term for payment, Penalty Amount owing and any further information on how to remit payment or appeal the decision, if applicable.

**5.11 Timeframe for Review Decision :**The Screening Officer/Hearing Officer may confirm, vary, or set aside the Penalty Order and shall do so soon as practical.

**5.12 Screening Officer Decision:** All decisions of the Screening Officer are final unless there is a second stage of appeal launched by the applicant within 30 days of the date of the decision of the Screening Officer

**5.13 Extension to Commence Appeal :** When the Screening Officer finds it fair and appropriate in the circumstances , the Officer may extend the 30 day period to commence the Screening Review. The applicant must request for an extension within the first 30 day period establishing extenuating circumstances that through no fault of their own lead to the failure to meet the time limit.

**5.14 Appeal to a Hearing Officer:** An appellant may commence a Hearing Review by requesting a review of the Screening Officer's decision by a Hearing Officer within 30 days of the date of the decision of the Screening Officer. If the Hearing Officer considers it fair and appropriate in the circumstances , the hearing officer may extend the request for review even after the 30 day period has expired.

**5.15 Hearing Options:** The Hearing Officer shall determine the stage of appeal for which they are responsible is to be conducted orally, electronically or in writing and shall ensure that the applicant is informed of the decision.

**5.16 Witnesses:** No witnesses shall be called in the review process.

**5.17 Payment Plans:** The screening officer may order periodic payments should the Owner establish their inability to pay the penalty order within the prescribed timeframe. The owner must fully set out on the prescribed form the reasons they are seeking an extension of time to pay their penalties and provide supporting documentation as to their current financial circumstances to establish a fair and reasonable plan.

**5.18 Extensions for payment:** The Screening Officer may extend the timeline for payment when deemed fair and appropriate in the circumstance . The Screening Officer may require documentation to support the request.

**5.19 Extension of Time to Pay Limitation :** Where the Screening Officer has extended the timeline for payment, the final date of payment will be entered on the Notice of Decision and the necessary entries will occur in the ASE system. Under no circumstances shall a request for an extension to the time be accepted after 15 days after the expiry of the appeal period.

**5.20 Financial Hardship:** A Screening Officer Shall only vary the amount of the penalty order upon receiving credible evidence that the person is subject to financial hardships .The screening officer must weigh and justify the reasons for the variation.

**5.21 Notice of Decision:** A copy of the decision made by a Screening or Hearing Officer shall be sent by mail, courier, or electronic means as soon as practical after the decision is made, in accordance with Ontario Regulation 355/22.

**5.22 Adjournments:** A Screening or Hearing Review may be adjourned where the Screening Officer deems it appropriate to do so. An extension of time can be considered for extenuating circumstances. The screening officer can extend the time to rebook the screening up to 30 days from the initial booking.

## 6. Implementation

This policy shall become effective immediately upon approval by Council. Any Revisions, modifications, or interpretations of this policy may be conducted by the manager of By-Law Enforcement or the Clerk with the consultation and support from the Chief Administrative Officer

<b>Approved By:</b>	<b>Department:</b>	<b>Status:</b>
Pamela Fettes, Clerk/Director of Administration Services	Clerks/Administration Dept	Approved - 28 Apr 2025
Bruce Hoppe, MCIP, RPP, Interim General Manager, Strategic Services	Infrastructure and Development Division	Approved - 30 Apr 2025
Neil Garbe, CAO	CAO	Approved - 01 May 2025