



Rules for Electronic Hearings

Introduction

The Corporation of the Town of Pelham (“the Town”) has implemented an administrative monetary penalty system for contraventions of by-laws that pertain to traffic and parking and various by-laws that pertain to other matters.

By-law No. 4353(2022), the Parking Administrative Penalty By-law, applies where administrative penalties are issued in relation to designated by-laws that regulate traffic and/or parking. By-law No. 4352(2022), the Administrative Penalty Process By-law, applies where administrative penalties are issued in relation to designated by-laws that do not regulate traffic or parking. Both by-laws permit a person who receives a penalty notice to request a review of the administrative penalty by a screening officer and to appeal to a hearing officer from the screening decision.

The *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (“*SPPA*”) authorizes the Town to make rules governing the practice and procedure before the hearing officer and allows such hearings to be held electronically if provided for in the rules. The Town has made these Rules for Electronic Hearings for use in appeals to the hearing officer in the administrative monetary penalty system.

Provincial regulations require appeal hearings under the Parking Administrative Penalty By-law to comply with the *SPPA*. Appeal hearings under the Administrative Penalty Process By-law are not required to comply with the *SPPA*. However, the Town is committed to providing a consistent and equal standard of procedural fairness for all appeals. Consequently, these Rules apply to hearing officer appeals under the Parking Administrative Penalty By-law and the Administrative Penalty Process By-law. These Rules do not apply to screening officer reviews, although such reviews may be conducted virtually at the election of the person requesting the review.

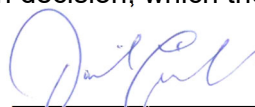
Rules

1. A person who appeals to the hearing officer from a screening decision may elect to have an electronic hearing.
2. The appeal and electronic hearing election must be made in accordance with the procedural requirements of the by-law under which the administrative monetary penalty was issued.
3. If not all parties to an appeal elect to have an electronic hearing, a hybrid hearing will be held to permit electing parties to attend virtually and non-electing parties to attend in person.
4. Electronic hearings will be conducted on a videoconferencing platform selected by the Town.
5. Every person who attends at an electronic hearing must participate by video and audio at all times unless the hearing officer directs otherwise.

6. In the event of technical difficulties during a hearing, the following rules apply:
 - a. If audio technology fails, the affected participant(s) will remain on video and be provided with a telephone number for audio communication; and
 - b. If video technology fails, the hearing will be temporarily suspended while efforts are made to re-establish video communication. Where such efforts are unsuccessful for a period of fifteen (15) minutes, the hearing will be adjourned and rescheduled.
7. The following persons are entitled to participate in an electronic hearing:
 - a. The hearing officer;
 - b. The appellant;
 - c. An authorized representative of the appellant where applicable, provided that the appellant identifies the representative in the initial appeal request;
 - d. The person who issued the penalty that is the subject of the hearing;
 - e. Any witness for the appellant or the Town, subject to the hearing officer's discretion to exclude evidence that is irrelevant or otherwise inadmissible at the hearing; and
 - f. The Town Solicitor.
8. Electronic hearings will be open to the public unless the hearing officer is of the opinion that:
 - a. It is not practical to hold the hearing in a manner that is open to the public;
 - b. Matters involving public security may be disclosed; or
 - c. Financial, personal or other matters may be disclosed such that the desirability of avoiding such disclosure warrants that the hearing not be open to the public.
9. Electronic hearings will not be recorded by any participant or member of the public.
10. The Town will compile an electronic hearing package that contains all documents related to the issuance of the administrative monetary penalty that is the subject of the hearing, the screening decision, and all materials submitted by the appellant in relation to the appeal.
11. The Town will provide the hearing package to the appellant and the hearing officer by email not less than five (5) days prior to the electronic hearing date. No new material, information or evidence that is not included in the hearing package may be introduced at the hearing, unless the hearing officer directs otherwise.
12. At the conclusion of the hearing, the hearing officer will render an oral decision immediately and will subsequently provide the Town with a written decision, which the Town will send to the appellant by email upon receipt.

Date: September 19, 2023

Approved by: _____



David Cribbs
Chief Administrative Officer