



## The Corporation of the Town of LaSalle

<b>Date</b>	February 14, 2019	<b>Report No:</b>	AD-01-19
<b>Directed To:</b>	Mayor and members of Council	<b>Attachments:</b>	Flow charts
<b>Department:</b>	Administration	<b>Policy References:</b>	
<b>Prepared By:</b>	D. Dadalt – Town Solicitor K. Miller – Deputy Clerk		
<b>Subject:</b>	Administrative Penalty		

### RECOMMENDATION:

That Council concur with implementing the Administrative Penalty System as it relates to parking and other municipal by-laws and that administration be authorized to move forward with the next steps as outlined in report AD-01-19.

### REPORT:

#### Legislative authority

In 2006, the province introduced amendments to the Municipal Act, 2001, which provided the discretionary power to municipalities to establish a system of administrative penalties ("APS") for the enforcement of by-laws that are considered minor in nature i.e. parking, licencing. The amendments also permit Council to delegate its quasi-judicial and administrative functions to individuals appointed by Council such as an officer, employee or agent of the municipality. In the event the municipality opts to introduce an APS, the Provincial Offences Act ("POA") would no longer apply to the violations identified by the APS.

In order to put structure around the implementation of an APS, the province enacted Ontario Regulation 333/07 to regulate the manner in which a municipality can operate the system. The legislation allows a monetary penalty for an offence that is subject only to an administrative review. Under an APS, the penalty is due once the infraction has been identified by the officer. This is unlike a fine (issued under the POA) which only becomes due once the party has pleaded guilty to an offence or the court has convicted the defendant. To this end, should council agree to implement an APS, infractions will become strictly an administrative review process and removed from the court system. The implementation of the APS will make residents more responsible for adhering to Town bylaws while providing a cost-effective, streamlined and customer-oriented service from the municipality.

Pursuant to Ontario Regulation 333/07, implementing an Administrative Penalty System is subject to the following:

- Developing standards relating to the administration of the APS which shall include:
  - Policies and procedures to prevent political interference in the administration of the system;
  - Guidelines to define what constitutes a conflict of interest in relation to the administration of the system, safeguards to prevent such conflicts of interest and to redress such conflicts should they occur;
  - Policies and procedures regarding financial management and reporting;
  - Procedures for the filing and processing of complaints made by the public with respect to the administration of the system.
- The municipality shall establish procedural requirements including:
  - The owner of a vehicle must be provided with reasonable notice that an administrative penalty is payable under the administrative penalty by-law;
  - The individual issuing a penalty in respect of the contravention of a designated by-law is not allowed to accept payment in respect of the penalty;
  - A person who receives a penalty notice shall be given the right to request a review of the administrative penalty by a screening officer appointed by the municipality for that purpose;
  - The screening officer may cancel, affirm or vary the penalty, including any fee imposed, upon such grounds as set out in the administrative by-law.
  - A person who receives notice of the decision of the screening officer shall in such circumstances as defined in the administrative penalty by-law, be given the right to a review of the screening officer's decision by a hearing officer appointed by the municipality for that purpose;
  - The hearing officer shall not make a determination with respect to a review of the screening officer's decision unless he or she has given the person who requested the review an opportunity to be heard;
  - The hearing officer may cancel, affirm or vary the decision of the screening officer upon such grounds as are set out in the administrative penalty by-law;
  - Procedures must be established to allow a person an extension of time to request a review by a screening officer or a review by a hearing officer;
  - Procedures must be established to allow a person to obtain an extension of time for the payment of the penalty on such conditions as may be specified in the administrative by-law,
  - Procedures that are established to allow an extension of time as noted above shall provide for a suspension of enforcement mechanisms in relation to the administrative penalty if an extension is granted;
  - Procedures must be established to permit persons to be excused from paying all or part of the administrative penalty, including any administrative fees, if requiring them to do so would cause undue hardship.
  - The municipality may establish the following administrative fees in respect to the administrative penalty system:

- If the administrative penalty is not paid within 15 days after the date it becomes due fees may be charged for:
  - Late payment
  - Amounts paid by the municipality to obtain documents or information about the vehicle or the owner of the vehicle.
- A fee in respect of the failure of a person to appear at the time and place scheduled for a hearing by a screening or a hearing officer;
- Any other fee or charge that may be imposed by the municipality in respect of the administration of the administrative penalty system under section 391 of the Act;
- No fee may be charged in relation to obtaining a review before a screening officer or a hearing officer.

In 2017, the Municipal Act, 2001, was further amended to provide municipalities with the ability to require persons to pay an administrative penalty if that person has failed to comply with a by-law of the municipality passed under the Act. Previously, an APS was generally used for parking and licencing violations. The new legislative powers provide for other by-laws to include within the APS.

To date, the Town has a number of by-laws included under Part 1 of the POA. This means that the Office of the Attorney General has approved short form wording and the set fine. As such, the Town is in a position to issue tickets; however, they are still subject to a review by the court system in the event a person challenges the fine. Therefore, it is recommended that, in addition to parking, the following by-laws may also be included as part of an APS for the Town:

- Animal control
- Signs
- Clean yard
- Parking/storage of recreational and commercial vehicles
- Obstructing of highways or bridges
- Setting of fires

### **Financial Considerations**

1. Technology
  - i. The Town currently owns the ICITY ticketing module, which will allow for the tracking of penalties issued by the Town. It is estimated that there will be approximately \$3,000 in costs relating to the implementation / training of this software.
  - ii. In order to facilitate payment options other than in person at the Town Hall, The Town is looking to implement the ability to complete the payment on-line. Anticipated costs for implementation is approximately \$5,000.
2. Printing of Penalty Notices – in order to provide for the enforcement of violations, the Town will incur costs to print penalty notices (similar to current tickets). Parking violation notices would be printed for the police service, fire service and municipal staff. Notices for other municipal by-

laws would be primarily for municipal staff. It is estimated that the upfront cost to print the required notices would be approximately \$2,000.

3. Review Officers

- i. In the event an individual wishes to contest a notice of penalty, they may request that the matter be referred to a Screening Officer. Council has the ability to appoint a member(s) of administration, save and except anyone who is authorized to issue a penalty, to the position of Screening Officer. Should council elect this option, there would be no additional costs to the municipality. In the event Council opts to appoint someone from the outside, additional costs would be incurred as indicated below.
- ii. In the event an individual is not satisfied with the decision issued by a Screening Officer, the matter may be referred to a Hearing Officer. Unlike the Screening Officer, a Hearing Officer cannot be a member of the administration. As such, the Town would be required to appoint an individual to take on this role. It is difficult to establish what the cost may be for this position as it will be dependant on the number of penalties issued and the number of individuals that request a hearing. However, based on a review of other municipalities, the Town could expect to pay in the range of \$2,000 annually. This cost is for the Hearing Officer. In the event Council opts for someone outside to act as a Screening Officer, the annual cost would be doubled.

### Next Steps

In the event Council agrees with moving forward to implement APS, the following next steps would be undertaken by administration:

1. Prepare by-law for adoption. The by-law not only establishes authority to issue administrative penalties, it also outlines the process that must be followed by the Town in detail;
2. Finalize ICITY ticketing software for the processing of penalties;
3. Finalize on-line payment option;
4. Create templates for penalties;
5. Draft application to the Ministry of Transportation of Ontario ("MTO") to become an authorized requester of information;
6. Draft application to MTO for plate denial/fee recovery;
7. Draft job description and advertisements for Hearing Officer.

With respect to the timelines to fully implement the system, administration would have the by-law available for review and adoption in March. It is noted that the Town will not be able to submit a formal application to the MTO until the by-law is adopted. According to the information received from the MTO, it can take up to 12 weeks to receive final approval and the execution of the required agreement. During the time that it would take for MTO approval, administration will finalize all other steps with an aim to have the process completed by the summer.

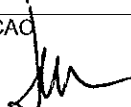
Respectfully submitted,



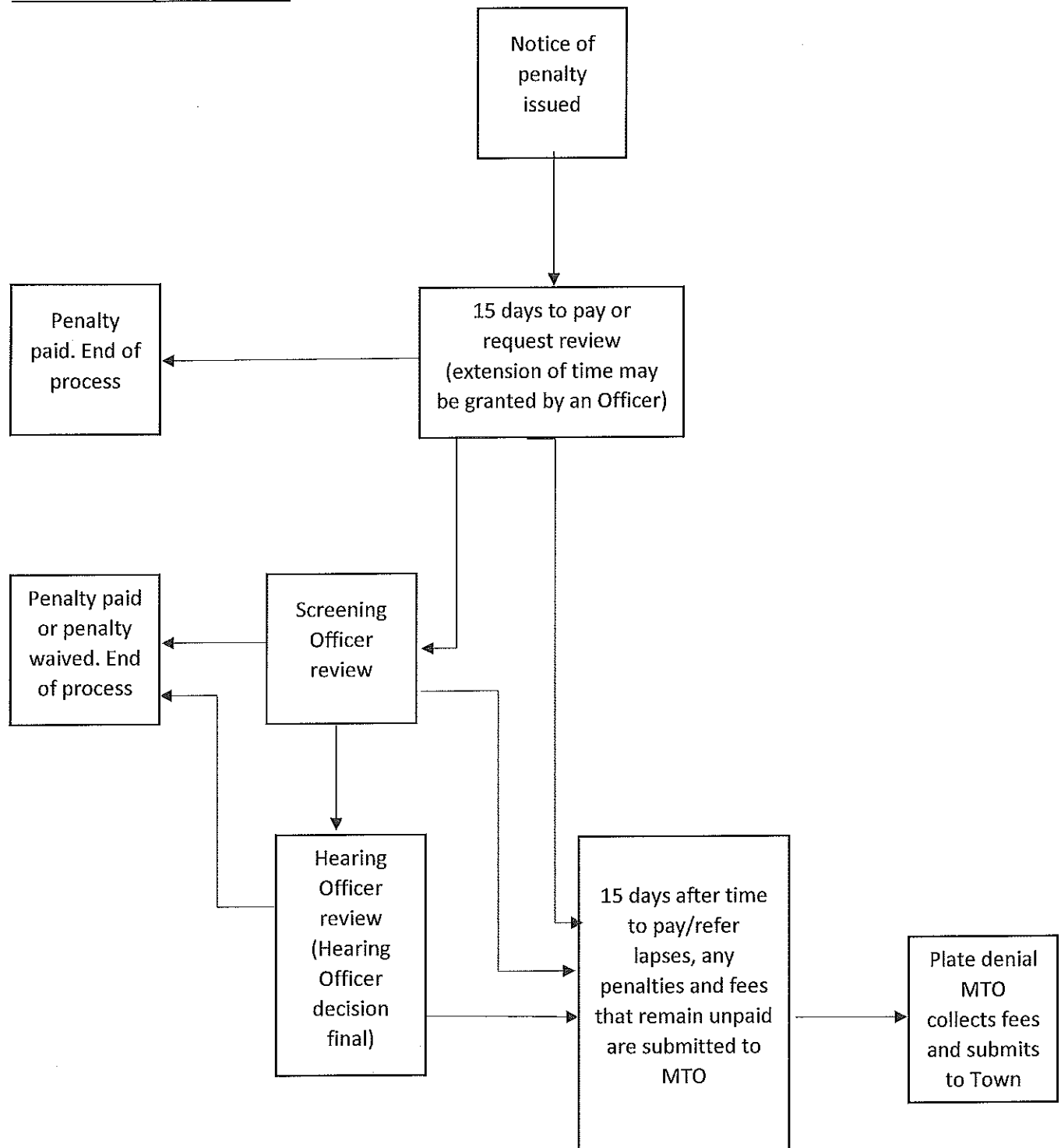
D. Dadalt – Town Solicitor



K. Miller – Deputy Clerk

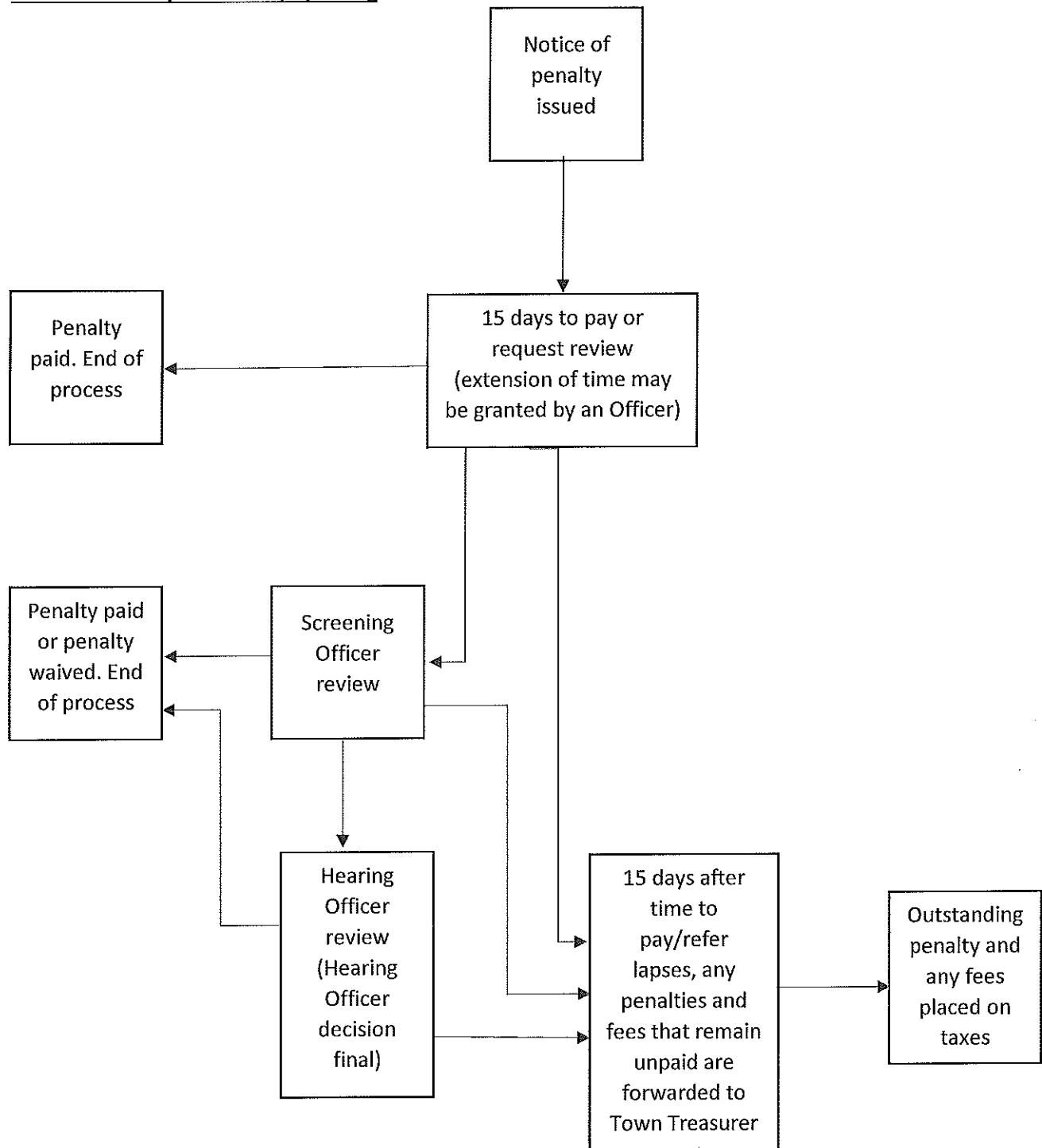
Reviewed by:							
CAO 	Treasury	Clerks	Env. Services	Planning	Parks & Rec	Building	Fire

**Process for no parking by-law**



**NOTE:** This chart provides a general overview of the Administrative Penalty process only. Please refer to By-Law number \*\*\*\* for further details on the timelines and process or call \*\*\*-\*\*\*\* ext \*\*\*\*

**Process for all By-Laws except parking**



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