

**THE CORPORATION OF THE TOWNSHIP OF ESSA
REGULAR COUNCIL MEETING
WEDNESDAY, MARCH 20, 2024
(To follow Committee of the Whole)**

AGENDA

Members of the public wishing to attend can do so by attending in person to the Council Chambers located in the Administration Centre at 5786 County Road 21, Utopia.

1. **OPENING OF MEETING BY THE MAYOR**
2. **DISCLOSURE OF PECUNIARY INTEREST**
3. **ADOPTION OF PREVIOUS MINUTES AND MOTIONS**

p. 1 Recommendation: **BE IT RESOLVED THAT** the motions duly passed and approved at the Committee of the Whole meeting of this date be approved; and **THAT** the minutes of the Committee of the Whole, and Regular Council meetings held on the 6th day of March, 2024 be adopted as circulated.

4. **CONSENT AGENDA**

Recommendation: **BE IT RESOLVED THAT** the items listed in the Consent Agenda dated March 20, 2024, be received for information.

5. **COMMITTEE REPORTS**
6. **PETITIONS**
7. **MOTIONS AND NOTICES OF MOTIONS**

- a. **Federal Infrastructure Funding Not Keeping Pace with Population Growth**

Recommendation: **WHEREAS**, Canada is experiencing record population growth, having welcomed 1.25 million new Canadians last year alone; and **WHEREAS**, According to the Canada Mortgage and Housing Corporation (CMHC) we need to build at least 3.5 million additional homes by 2030, and municipalities need to build or expand the infrastructure to accommodate this growth; and **WHEREAS**, FCM has estimated that the cost of the municipal infrastructure required support housing development is, on average, in the range of \$107,000 per unit; and **WHEREAS**, According to Statistics Canada the cost of upgrade existing municipal infrastructure so that it is in a state of good repair is in the range of \$170 billion; and **WHEREAS**, Non-residential construction price inflation has risen by 29% since the end of 2020 and municipalities are facing soaring costs for infrastructure project without a corresponding growth in revenue; and **WHEREAS**, Unlike federal and provincial revenue, municipal tax revenue has not increased in recent years along with inflation, economic growth or population growth; and

WHEREAS, Municipalities are facing a gap in federal infrastructure funding as the 10-year Investing in Canada Infrastructure Program has come to an end, the Canada Community-Building Fund is being renegotiated and the Permanent Public Transit Fund is set to start in 2026; and

WHEREAS, The Canada Community-Building Fund (CCBF), which was formerly known as the federal Gas Tax Fund, provides more than \$2billion in annual capital funding directly to municipalities through a predictable allocation mechanism, and municipalities of all sizes use the CCBF to deliver direct results for Canadians by building and renewing critical core public infrastructure, including water infrastructure, local roads, public transit and community, and cultural and recreational facilities;

BE IT RESOLVED THAT the federal government work with agreement signatories and municipalities to maintain the CCBF as a source of direct, predictable, long-term funding for local infrastructure priorities; and

THAT the federal government commit, in Budget 2024, to the next generation of infrastructure programs, including a new program for water and wastewater infrastructure and an increase to the Disaster Mitigation and Adaptation Fund; and

THAT the federal government convene provinces, territories and municipalities to negotiate a “Municipal Growth Framework” to modernize the way that municipalities are funded in order to enable Canada’s long-term growth.

8. UNFINISHED BUSINESS

9. BY-LAWS

- p. 8 a. **By-law 2024-18 – A By-law to amend Essa’s Automated Speed Enforcement Administrative Monetary Penalty Program.**

Recommendation: *Be it resolved that By-law 2024-18 be read a first, and taken as read a second and third time and finally passed.*

10. QUESTIONS

11. CLOSED SESSION

Recommendation: **BE IT RESOLVED THAT** Council proceed to a Closed Session in order to address matters pertaining to:

- ITEM
ADDED
- a. **Confidential Staff Report CAO005-24 submitted by Interim CAO, re: Staffing.**
- *Personal Matters About an Identifiable Individual [s.239(2)(b)]*
 - *Labour Relations or Employee Negotiations [s.239(2)(d)]*
- b. **Confidential Verbal Update from Mayor Macdonald and Deputy Mayor Smith, re: Staffing.**
- *Personal Matters About an Identifiable Individual [s.239(2)(b)]*
 - *Labour Relations or Employee Negotiations [s.239(2)(d)]*

Motion to Rise and Report from Closed Session Meeting of March 20, 2024.

Recommendation: *Be it resolved that Council rise and report from the Closed Session Meeting at _____ p.m.*

12. CONFIRMATION BY-LAW

p. 21 **a. By-law 2024-19**

Recommendation: ***BE IT RESOLVED THAT*** leave be granted to introduce By-law 2024-19 that being a By-law to confirm the proceedings of the Committee of the Whole, Closed and Council meetings held on this 20th day of March, 2024; and, that said By-law be read a first, and taken as read a second and third time and finally passed.

13. ADJOURNMENT

Recommendation: ***BE IT RESOLVED THAT*** this meeting of Council of the Township of Essa adjourn at _____ p.m. to meet again on the 3rd day of April, 2024 at 6:00 p.m.

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**THE CORPORATION OF THE TOWNSHIP OF ESSA
COMMITTEE OF THE WHOLE MEETING
WEDNESDAY, MARCH 6, 2024**

MINUTES

A Committee of the Whole meeting was held in person on Wednesday March 6, 2024, in the Council Chambers of the Administration Centre, Township of Essa.

In attendance: Mayor Sandie Macdonald
Deputy Mayor Michael Smith (Absent)
Councillor Pieter Kiezebrink
Councillor Henry Sander
Councillor Liana Maltby

Staff in attendance: M. Mikael, Manager of Public Works/Interim CAO
C. Rankin, Manager of Parks and Recreation
D. Dollmaier, Manager of Finance
S. Corbett, Deputy Clerk
L. Lehr, Manager of Legislative Services

1. OPENING OF MEETING BY THE MAYOR

Mayor Macdonald opened the meeting at 6:00 p.m.

The Township of Essa acknowledges that we are situated on land within the area of Treaty 18, also known as the Lake Simcoe-Nottawasaga Treaty, signed on October 17, 1818 between the Government of Upper Canada and the Anishinaabe Indigenous peoples. The Anishinaabe include the Ojibwe, Odawa and Pottawatomi Nations collectively known as the Three Fires Confederacy. We are dedicated to honoring Indigenous history and culture and committed to moving forward in the spirit of reconciliation and respect with all First nation, Metis and Inuit People.

2. DISCLOSURE OF PECUNIARY INTEREST

3. DELEGATIONS / PRESENTATIONS / PUBLIC MEETINGS

STAFF REPORTS

4. PLANNING AND DEVELOPMENT

5. PARKS AND RECREATION / COMMUNITY SERVICES

- a. **Staff Report PR004-24 submitted by the Manager of Parks and Recreation re: Ivy Minor Baseball Request.**

Resolution No: CW020-2024 Moved by: Sander Seconded by: Kiezebrink

BE IT RESOLVED THAT Staff Report PR004-24 be received; and THAT Council approve the request of Ivy Minor Baseball to waive the applicable fees in respect to Challenger baseball rentals for the 2024 season for Ivy Minor Baseball.

----Carried-----

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6. FIRE AND EMERGENCY SERVICES

7. PUBLIC WORKS

8. FINANCE

- a. Release of Lot Grading Deposits – San Diego Homes – Phase 1 Subdivision (Plan 51M-1129).

Resolution No: CW020-2024 Moved by: Kiezebrink Seconded by: Maltby

BE IT RESOLVED THAT RESOLVED that Council approve the release of Lot Grading Deposits relating to San Diego Homes – Phase 1 Angus Subdivision, as recommended by AECOM as follows:

Current Lot Grading Deposits Held by the Township of Essa:	\$132,500.00
Reduction as Recommended by AECOM:	\$122,500.00
Deposits to be Retained by Township of Essa:	\$10,000.00

And,

THAT this approval is conditional upon the Developer providing the municipality with a Statutory Declaration indicating that all accounts have been paid in full, including all of the Township's legal and engineering costs.

----Carried----

- b. Correspondence from Township Engineer AECOM, re: Reduction in Securities – San Diego Homes – Phases 1 and 2 Angus Subdivision (Plans 51M-1129 and 51M-1130).

Resolution No: CW021-2024 Moved by: Kiezebrink Seconded by: Maltby

BE IT RESOLVED THAT Council approve a reduction in securities relating to San Diego Homes – Phases 1 & 2 Angus Subdivision, as recommended by AECOM as follows:

Current Securities Held by Township of Essa:	\$1,634,714.51
Reduction as Recommended by AECOM:	\$654,815.74
Securities to be Retained by Township of Essa:	\$979,898.77

And,

THAT this approval is conditional upon the Developer providing the municipality with a Statutory Declaration indicating that all accounts have been paid in full, including all of the Township's legal and engineering costs.

----Carried----

9. CLERKS / BY-LAW ENFORCEMENT / IT

10. CHIEF ADMINISTRATIVE OFFICER (C.A.O.)

11. OTHER BUSINESS

- Council supported the request for a report to be brought forward at a future meeting specific to the boundaries that encompass South Simcoe Minor Baseball Association.
- Councillor Maltby provided an update on the South Simcoe Streams Network and plans for the spring planting.
- Councillor Maltby commented on the accumulation of garbage in Essa's municipal parks, open spaces and along roadsides.
- Councillor Maltby informed that the deadline for nominations of Essa businesses for the Nottawasaga Futures Business Awards has been extended.

12. ADJOURNMENT

Resolution No: CW022-2024 Moved by: Sander Seconded by: Maltby

BE IT RESOLVED THAT this meeting of Committee of the Whole of the Township of Essa adjourn at 6:11 p.m., to meet again on the 20th day of March, 2024 at 6:00 p.m.

----Carried-----

Sandie Macdonald
Mayor

Lisa Lehr
Manager of Legislative Services

THE CORPORATION OF THE TOWNSHIP OF ESSA
REGULAR COUNCIL MEETING
WEDNESDAY, MARCH 6, 2024

MINUTES

The Regular Meeting of Council was held in person on Wednesday March 6, 2024, following the Committee of the Whole in the Council Chambers of the Administration Centre, Township of Essa.

In attendance: Mayor Sandie Macdonald
Deputy Mayor Michael Smith (Absent)
Councillor Pieter Kiezebrink
Councillor Henry Sander
Councillor Liana Maltby

Staff in attendance: M. Mikael, Interim CAO/Manager of Public Works
C. Rankin, Manager of Parks and Recreation
D. Dollmaier, Manager of Finance
S. Corbett, Deputy Clerk
L. Lehr, Manager of Legislative Services

1. **OPENING OF MEETING BY THE MAYOR**

Mayor Macdonald opened the meeting at 6:12 p.m.

2. **DISCLOSURE OF PECUNIARY INTEREST**

Councillor Kiezebrink declared an interest on Items 9(a) and 9(b) as his employer has a pecuniary interest in the proposal.

3. **ADOPTION OF PREVIOUS MINUTES AND MOTIONS**

Resolution No: CR041-2024 Moved by: Maltby Seconded by: Sander

BE IT RESOLVED THAT the motions duly passed and approved at the Committee of the Whole meeting of this date be approved; and THAT the minutes of the Committee of the Whole, Public, Closed and Regular Council meetings held on the 6th day of March, 2024 be adopted as circulated.

----Carried-----

4. **CONSENT AGENDA**

Resolution No: CR042-2024 Moved by: Maltby Seconded by: Sander

BE IT RESOLVED THAT the items listed in the Consent Agenda dated March 6th, 2024, be received for information; and THAT Items A6, A8 and A10 be referred to section B for staff action.

----Carried-----

5. COMMITTEE REPORTS

a. Minutes of the Essa Public Library Board

Resolution No: CR043-2024 Moved by: Kiezebrink Seconded by: Maltby

BE IT RESOLVED THAT the Minutes of the Essa Public Library Board from their meeting on January 22, 2024, be received.

----Carried-----

6. PETITIONS

a. Petition to Oppose Zoning By-law Amendment for 58 Vernon Street, Angus

Resolution No: CR044-2024 Moved by: Sander Seconded by: Maltby

BE IT RESOLVED THAT the petition as provided regarding opposition to the proposed Zoning By-law Amendment Z11-23 for 58 Vernon Street, Angus, be received.

----Carried-----

7. MOTIONS AND NOTICES OF MOTIONS

a. 2024 Amendment to the Occupational Health and Safety Act to Clarify the Definition of "Employer"

Resolution No: CR045-2024 Moved by: Kiezebrink Seconded by: Maltby

WHEREAS in 2015 the City of Greater Sudbury (the "City") entered into a contract with a contractor experienced in road construction projects to complete a project on Elgin Street in the City's downtown core; and

WHEREAS the contract provided that the contractor would be the constructor for the project as that term is defined in the Occupational Health and Safety Act (the "Act"); and

WHEREAS an employee of the constructor operating a grader on the project struck and killed a pedestrian; and

WHEREAS the City was charged with offences under the Act as the constructor and the employer; and

WHEREAS after being acquitted at trial and on appeal, the Ontario Court of Appeal, in a decision issued on April 23, 2021, found the City to be liable for contraventions of the Construction Regulations as an employer as it employed quality control inspectors to monitor the quality of work on the project from time-to-time; and

WHEREAS the Supreme Court of Canada, in a decision issued on November 10, 2023, was evenly divided 4-4 on the issue resulting in dismissal of the City's appeal; and

WHEREAS the consequence of this decision is that municipalities in Ontario, as well as all other owners of property in the province, who wish to undertake construction, are subject to being charged and convicted as an employer for offences in relation to project sites for which they have no control and have, in accordance with the Act, contracted with an entity to assume plenary oversight and authority over the work on such site as the constructor; and

WHEREAS the potential of an owner being charged as an employer as that term is defined in the Act in circumstances where it has engaged a constructor disregards and renders meaningless the owner-constructor provisions contained in the Act and presents an unacceptable level of increased risk and confusion for owners and contractors throughout the province; and

WHEREAS the Township believes that the safety of workers is paramount however the safety of workers on construction projects in Ontario is not increased by placing liability on parties that do not have control of and are not responsible for the conduct of the work on such sites;

NOW THEREFORE BE IT RESOLVED THAT the Council for the Township of Essa requests that the province amend the Occupational Health and Safety Act to clarify the definition of "employer" to exclude owners that have contracted with a constructor for a project; and

BE IT FURTHER RESOLVED THAT this motion be provided to the Honourable Doug Ford – Premier of Ontario, the Honourable David Piccini – Minister of Labour, Immigration, Training and Skills Development, the Honourable Paul Calandra – Minister of Municipal Affairs and Housing, Brian Saunderson – MPP Simcoe-Grey, and the Association of Municipalities of Ontario.

----Carried----

8. UNFINISHED BUSINESS

9. BY-LAWS

Councillor Kiezebrink declared an interest on Items 9(a) and 9(b). He recused himself from Council Chambers and did not participate in any discussion on this Item.

- a. **By-law 2024-15 – A By-law to amend Essa’s Zoning By-law to allow for the rezoning of lands known municipally as 14 and 18 Margaret Street.**
- b. **By-law 2024-16 – A By-law to adopt Amendment No. 41 to the Official Plan for the Township of Essa for lands known municipally as 14 and 18 Margaret Street.**

Resolution No: CR046-2024 Moved by: Maltby Seconded by: Sander

BE IT RESOLVED that By-laws 2024-15 and 2024-16 be read a first, and taken as read a second and third time and finally passed.

----Carried----

Councillor Kiezebrink resumed his seat for the remainder of the meeting.

10. QUESTIONS

11. CLOSED SESSION

- a. **PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL [s.239(2)(b)]
LABOUR RELATIONS OR EMPLOYEE NEGOTIATIONS [s.239(2)(d)]
Confidential Staff Report CAO004-24 submitted by the Interim CAO,
re: Staffing**

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11. **CLOSED SESSION**

Council did not proceed into Closed Session for deliberations.

- a. **PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL [s.239(2)(b)]
LABOUR RELATIONS OR EMPLOYEE NEGOTIATIONS [s.239(2)(d)]
Confidential Staff Report CAO004-24 submitted by the Interim CAO,
re: Staffing**

Resolution No: CR047-2024 Moved by: Kiezebrink Seconded by: Sander

BE IT RESOLVED THAT Confidential Staff Report CAO004-24 regarding personal matters about identifiable individuals be received: and

THAT Council direct staff in accordance with Option 2 as contained within the body of the Report.

----Carried----

12. **CONFIRMATION BY-LAW**

- a. **By-law 2024-17**

Resolution No: CR048-2024 Moved by: Sander Seconded by: Maltby

BE IT RESOLVED THAT leave be granted to introduce By-law 2024-14, that being a By-law to confirm the proceedings of the Committee of the Whole, Closed and Council meetings held on this 21st day of February, 2024; and, that said By-law be read a first, and taken as read a second and third time and finally passed.

----Carried----

13. **ADJOURNMENT**

Resolution No: CR2049-2024 Moved by: Maltby Seconded by: Sander

BE IT RESOLVED THAT this meeting of Council of the Township of Essa adjourn at 6:21 p.m. to meet again on the 20th day of March, 2024 at 6:00 p.m.

----Carried----

Sandie Macdonald
Mayor

Lisa Lehr
Manager of Legislative Services

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THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2024 – 18

A By-law to establish and implement an Administrative Penalty System (APS) for Contraventions Detected Using Automated Speed Enforcement (ASE) Cameras, within the Township of Essa.

WHEREAS Section 11 of the *Municipal Act*, R.S.O. 2001, c.25, authorizes municipalities to enact by-laws respecting matters within the sphere of jurisdiction of highways, including traffic on highways, in conjunction with the *Highway Traffic Act*; and

WHEREAS Section 128 of the *Highway Traffic Act* (“HTA”), R.S.O. 1990, c.H.8 as amended, establishes that the council of a municipality may, for motor vehicles driven on a highway or portion of a highway under its jurisdiction, by by-law prescribe a rate of speed that is not greater than 100 kilometres per hour and may prescribe different rates of speed for different times of day;

WHEREAS O. Reg. 355/22 under the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, authorizes the use of Administrative Penalties for vehicle-based contraventions captured by Automated Speed Enforcement Systems; and

WHEREAS Section 21.1 of the HTA and O. Reg. 355/22, authorize the municipalities to establish an administrative penalty system to promote compliance with the HTA and its Regulations, and impose an administrative penalty within a prescribed time period on a prescribed class of persons that have contravened or failed to comply with prescribed provisions of the HTA and its Regulations; and

WHEREAS the purpose of the Administrative Penalty System as established by this municipality is to assist with promoting compliance of its Speed Limit, Community Safety Zone and School Zone By-laws; and

WHEREAS sections 23.2, 23.3 and 23.5 of the *Municipal Act* authorizes municipalities to delegate its administrative and hearing powers; and

WHEREAS the Council of the Corporation of the Township of Essa considers it desirable to provide for a system of administrative penalties and administrative fees for the designated Sections of the HTA, or portions of the designated HTA Sections set out herein;

NOW THEREFORE Council of The Corporation of the Township of Essa hereby enacts as follows:

1.0 TITLE

1.1 This By-law shall be known and cited as the "Administrative Penalty By-law for Contraventions Detected Using Camera Systems".

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2.0 DEFINITIONS

2.1 Where words and phrases used in this By-law are not defined herein but are defined in the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended from time to time or any successor thereof (the HTA), the definitions in the HTA shall apply.

2.2 In this By-law:

Administrative Fee – means any fee specified in this By-law or set out in Ontario Regulation 355/22 made under the *Highway Traffic Act*;

Administrative Penalty - means any monetary penalty as set out and calculated in accordance with Section 6 of O. Reg 355/22 made under the *Highway Traffic Act*;

A.P.S. – means Administrative Penalty System;

Designated Section - means a section or portions of sections of the HTA to which this APS By-law applies, as designated under this By-law;

Director – means the person performing the function or the functions of the municipality's Manager of Legislative Services and/or their designate;

Hearing Decision - means a notice which contains the decision of a Hearing Officer, as set out in Section 6.10 of this By-law;

Hearing Officer - means a person who is appointed by Council to perform the duties of the Hearing Officer as set out in section 6 of this By-law, and meeting the requirements that a Hearing Officer cannot be a member of Council or an employee of the municipality. The Hearing Officer shall have knowledge of and experience in administrative law; such as a lawyer, retired lawyer, paralegal, retired paralegal, retired police officer, retired municipal clerk or retired municipal deputy clerk;

Holiday - means a Saturday, Sunday and any statutory holiday in the province of Ontario, or any day on which the offices of the Township of Essa are officially closed for business;

Officer (Provincial Offences Officer) - means a person employed by the Township of Essa and designated as a Provincial Offences Officer by the Minister of Transportation in accordance with s. 4 of O. Reg 355/22, that being a person authorized to administer and enforce s. 128 of the *Highway Traffic Act* in relation to speeding infractions caught by an automated speed enforcement camera system.

Owner - means the person whose name appears on the permit for the vehicle as provided by the Ontario Ministry of Transportation, and if the vehicle permit consists of a vehicle portion and a plate portion and

different persons are named on each portion, the person whose names appears on the plate portion;

Penalty Order - means an order made under Subsection 21.1(2) of the HTA;

Penalty Order Date - means the date of the contravention specified on the Penalty Order;

Penalty Order Number - means the reference number specified on the Penalty Order that is unique to that Penalty Order;

Person - includes an individual, a corporation, partnership, sole proprietorship, or an authorized representative thereof.

Regulation - means O. Reg. 355/22, made under the HTA, as amended from time to time, or any successor thereof;

Request for Review by Hearing Officer - means the request which may be made in accordance with section 6 of this By-law for the review of a Screening Decision;

Request for Review by Screening Officer - means the request made in accordance with section 5 of this By-law for the review of a Penalty Order;

Review by Hearing Officer and Hearing - means the process set out in section 6 of this By-law;

Review by Screening Officer and Screening Review - means the process set out in section 5 of this By-law;

Screening Decision - means a notice which contains the decision of a Screening Officer, delivered in accordance with Section 5.7 of this By-law;

Screening Officer - means a person employed by the Township of Essa and appointed by Council pursuant to this By-law, who performs the duties of Screening Officer as set out in section 5 of this By-law and meeting the requirements that a Screening Officer cannot be a Member of Council;

Township - means The Corporation of the Township of Essa.

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3.0 APPLICATION OF THIS BY-LAW

3.1 In accordance with the *Highway Traffic Act* (“HTA”), or portions of the HTA, the following sections shall be designated sections for the purposes of Section 21.1(2) of the HTA:

a) Subsection 128(1);

3.2 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 O. Regulation 355/22. Where a discrepancy in the Administrative Penalty Amount occurs, the penalties outlined in section 6 of O. Regulation 355/22 shall prevail.

4.0 PENALTY ORDER

4.1 An Officer who has reason to believe that a person has contravened a designated section or portions of designated sections may issue a Penalty Order in accordance with this By-law set out in one or more of the following parts of the HTA:

a) Part XIV.1 “Automated Speed Enforcement”.

4.2 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 determined under section 6 of O. Regulation 355/22.

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 O. Regulation 355/22.

g) A statement that the owner of the motor vehicle may, no later than 30 days after the day the order is served on them, commence an appeal in accordance with O. Regulation 355/22.

h) Information regarding the appeal process including the manner in which to commence an appeal.

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- i) A copy of a photograph or image of the motor vehicle involved in the contravention may be included in the penalty order.
- j) The penalty order will include statements by the authorized person that are certified to be true in respect of the contravention or in respect of the service of the penalty order.
- k) The penalty order shall be in the form specified by the municipality that employs the authorized person.

5.0 REVIEW BY SCREENING OFFICER

- 5.1 A person who is served a Penalty Order may, within 30 calendar days after the Effective Date of Service, may request that the Administrative Penalty be reviewed by a Screening Officer.
- 5.2 A request for a review, or for an extension of time to request a review, shall be in the form and manner as determined by the Director from time to time, and shall include the Penalty Order Number and the person's contact information. Where a request is made by a person who is not the Owner, the person shall submit with the request an authorized agent/representative form, in the form as determined by the Director from time to time. Incomplete forms or forms not submitted in the form and manner as determined by the Director may not be accepted or processed, at the discretion of the Director.
- 5.3 The Screening Officer may only 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 that warrant the extension of time. The Screening Officer will consider the request for extension before reviewing the Administrative Penalty.
- 5.4 Where an extension of time to request a review is not granted by the Screening Officer, the Administrative Penalty and any applicable Administrative Fees shall be deemed to be affirmed and shall not be subject to review.
- 5.5 Where neither a review nor an extension of time for review are requested in accordance with this By-law, or where the person fails to request a review within any extended period of time granted by the Screening Officer:
 - a) The person shall be deemed to have waived the right to a screening and a hearing;
 - b) The Administrative Penalty, and any applicable Administrative Fees, shall be deemed to be affirmed; and
 - c) The Administrative Penalty, and any applicable Administrative Fees, shall not be subject to review.

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- 5.6 Upon review of an Administrative Penalty, the Screening Officer may affirm the Administrative Penalty including any applicable Administrative Fees, or the Screening Officer may cancel or reduce the Administrative Penalty or extend the time for payment of the Administrative Penalty, including any applicable Administrative Fees, on the following grounds:
- a) Where the Screening Officer is satisfied, on a balance of probabilities, that a contravention of section 128 of the *Highway Traffic Act*, was not proven as set out in the Penalty Order; or
 - b) Where the Screening Officer is satisfied, on a balance of probabilities, that the cancellation, reduction or extension of the time for payment of the Administrative Penalty, including any applicable Administrative Fees, is necessary to reduce any undue hardship.
- 5.7 Every person who has been granted a review by the Screening Officer shall be sent a copy of the Screening Decision as soon as is practical after the decision has been made, in accordance with Section 7.3 of this By-law.

6.0 REVIEW BY HEARING OFFICER

- 6.1 Any person to whom a Screening Decision is issued may request a review of the Screening Decision by a Hearing Officer within 30 calendar days after the date on which the Screening Decision was issued.
- 6.2 A request for a review by the Hearing Officer, or for an extension of time to request a review before the Hearing Officer, shall be in the form and manner as determined by the Director from time to time, and shall include the Penalty Order Number and the person's contact information. Where a request is made by a person who is not the Owner, the person shall submit with the request an authorized agent/representative form, in the form as determined by the Director from time to time. Incomplete forms or forms not submitted in accordance with the form and manner as determined by the Director may not be accepted or processed, at the discretion of the Director.
- 6.3 The Hearing Officer may only extend the time to request a review of the Screening Decision where the person requesting the extension demonstrates, on a balance of probabilities, extenuating circumstances that warrant the extension of time. The Hearing Officer will consider the request for extension before reviewing the Screening Decision.
- 6.4 Where an extension of time for a hearing review is not granted by the Hearing Officer, the Screening Decision shall be deemed to be affirmed, and shall not be subject to review.
- 6.5 Where neither a hearing review nor an extension of time for a hearing review are requested in accordance with this By-law, or where the person fails to request a hearing review within any extended period of time granted by the Hearing Officer:

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- a) The person shall be deemed to have waived the right to a hearing review;
 - b) The Screening Decision shall be deemed to be affirmed; and
 - c) The Screening Decision shall not be subject to review.
- 6.6 Upon review of the Screening Decision, the Hearing Officer may affirm the Screening Decision, or the Hearing Officer may cancel, reduce or extend the time for payment of the Administrative Penalty, including any applicable Administrative Fees, on the following grounds:
- a) Where the Hearing Officer is satisfied, on a balance of probabilities, that a contravention of section 128 of the *Highway Traffic Act* was not proven as set out in the Penalty Order; or
 - b) Where the Hearing Officer is satisfied, on a balance of probabilities, that the cancellation, reduction or extension of the time for payment of the Administrative Penalty, including any Administrative Fees, is necessary to reduce any undue hardship.
- 6.7 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 Township an opportunity to be heard.
- 6.8 In making a determination, the Hearing Officer may consider and rely on documentation as outlined in s.13(3) of O. Regulation 355/22. Those items being photographs or images taken by the camera system; certified statements of the Officer that imposed the penalty order; certified documents setting out the name/address of the person who is subject to the penalty order; a description of the permit and the number plate of the motor vehicle; statements made by the appellant (either in writing or in the manner in which the appeal is conducted); statements by or on behalf of the municipality in which the contravention that is the subject of the penalty order occurred, made in the manner in which the appeal is conducted; any other information, materials or submissions that the Hearing Officer considers to be credible or trustworthy in the circumstances.
- 6.9 The person requesting the hearing shall be served with a copy of the Hearing Decision as soon as practicable after the review is complete.
- 6.10 The decision of a Hearing Officer is final.
- 6.11 Where notice has been given in accordance with this By-law, and the person fails to appear at the time and place scheduled for a review by the Hearing Officer:
- a) The person shall be deemed to have abandoned the hearing; and

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b) The Screening Decision shall be deemed to be affirmed.

7.0 SERVICE OF DOCUMENTS

7.1 Service of a Penalty Order in any of the following ways is deemed effective by:

- a) A penalty order may be served on the person who is subject to the order by sending the order by mail to the most recent address that appears on the Ministry of Transportation records in respect of the holder of the plate portion of the permit for the motor vehicle involved in the contravention.
- b) If the authorized person who imposed the penalty order believes that the person who is subject to the order resides outside Ontario or, in the case of a corporation has its principal place of business outside Ontario, the penalty order may be served on the person by sending the order by mail or by courier to the address outside Ontario at which the authorized person believes the person resides or has its principal place of business.
- c) The address mentioned in subsection (b) may be determined from a document obtained from the government of any province or territory of Canada or from the government of a state of the United States of America, or from a person or entity authorized by any such government to keep records of vehicle permits, number plates or other evidence of vehicle ownership in that jurisdiction.
- d) Service of a penalty order mailed or couriered in accordance with this section is deemed to be served on the seventh (7th) day following the day on which it was mailed or couriered.

7.2 For purposes of this By-law, the last known address of the Owner shall be the address as set out on the vehicle ownership or, where an updated address has been provided in writing by the Owner to the Enforcement Services offices of the Township at the time of service, such updated address.

7.3 Any Penalty Order or document sent in writing to the Owner by regular mail, as set out in this By-law, is deemed to have been served on the seventh calendar day after the date of mailing.

7.4 Service of any document or notice (other than a Penalty Order) on an authorized representative of the Owner shall be deemed service on the Owner.

8.0 ADMINISTRATION

8.1 The Director shall administer this By-law.

8.2 The Director may:

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- a) Designate the location within the Township of Essa for conducting reviews and hearings under this By-law, as well as setting the time(s) for such reviews and hearings;
 - b) Prescribe all forms, notices, including the Penalty Order, guidelines, processes, policies and procedures, necessary to implement the By-law and the administrative penalty system, and to amend such forms, notices, guidelines, procedures and processes from time to time as the Director deems necessary; and
- 8.3 Any Administrative Fee(s) prescribed within Schedule "A" of this By-law shall be added to, and deemed to be, part of the Administrative Penalty amount unless otherwise rescinded by the Hearing Officer.
- i. In accordance with s. 14 of O. Regulation 355/22, if the appellant fails to attend any stage of an appeal, the amount of the penalty shall be increased by \$60.00.

9.0 GENERAL PROVISIONS

- 9.1 A Penalty Order that is paid prior to a screening review shall be deemed as final and will not be subject to screening, unless there is an error on the face of the Penalty Order as determined by the Director may cancel the Penalty Order and direct a refund of all amounts paid.
- 9.2 Unless otherwise stated in this By-law, an Administrative Penalty is due and payable within 30 calendar days following the Effective Date of Service.
- 9.3 Where an Administrative Penalty, including any Administrative Fees, is affirmed or reduced by a Screening Officer or a Hearing Officer, the Administrative Penalty and any Administrative Fees shall be due and payable on the date specified in the Screening Decision or Hearing Decision, as the case may be.
- 9.4 Where an Administrative Penalty, including any Administrative Fees, is not paid within 30 calendar days after it has become due and payable, the Township may notify the Ministry of Transportation of the default. Plate denial is at the discretion of the Ministry of Transportation. If the Ministry of Transportation does deny a plate renewal, they would be responsible to charge and collect the associated fee.
- 9.5 All amounts due and payable to the Township pursuant to this By-law constitute a debt to the Township.
- 9.6 Where a person makes a request for an extension of time for payment, and the request is granted, the date on which the Administrative Penalty is due and payable shall be the date established in accordance with the extension of time, and:

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- a) the Penalty Order will not be subject to the Late Payment Fee, until the time for payment has expired, and then in accordance with the provisions herein; and
 - b) the enforcement mechanisms available to the Township shall be suspended until the extension of time has expired, and then shall apply in accordance with the provisions herein.
- 9.7 Where a person has paid an Administrative Penalty or an Administrative Fee that is cancelled or reduced by a Screening Officer or Hearing Officer, the Township shall refund the amount cancelled or reduced.
- 9.8 No Officer may accept payment in respect of an Administrative Penalty or Administrative Fee.
- 9.9 Payments of an Administrative Penalty or Administrative Fee must be received by the date on which they are due and payable, or any extended due date in accordance with this By-law and will not be credited until received by the Township.
- 9.10 Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.
- 9.11 An authorized representative is permitted to appear on behalf of a person at a Screening Review or a Hearing Review or to communicate with the Township of Essa on behalf of a person where a written Authorization to Act as an Agent form has been provided.
- 9.12 Any person claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the Screening Officer or Hearing Officer, as applicable.
- 9.13 All Administrative Penalties associated with automated speed enforcement are administered and calculated in accordance with O. Reg 355/22 made under the *Highway Traffic Act*.

10.0 SEVERABILITY

- 10.1 Should any provision, or any part of a provision, of this By-law, be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of Council that such a provision, or part of a provision, shall be severed from this By-law, and every other provision of this By-law shall be applied and enforced in accordance with its terms to the extent possible according to law.

11.0 OFFENCES

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11.1 Any person who:

- a) Makes a false, misleading or fraudulent statement in relation to a Penalty Order, or on any form submitted to the Township in relation to a Penalty Order; or
- b) Obstructs an Officer exercising any authority under this By-law;

is guilty of an offence and, upon conviction, is subject to a penalty in accordance with s.128(1) of the *Highway Traffic Act section 128(1)*, *O. Reg 355/22 and 398/19*.

11.2 No person shall attempt, directly or indirectly, to communicate with a Screening Officer or Hearing Officer for the purpose of influencing or interfering, financially, politically or otherwise with the Screening Officer or Hearing Officer respecting a Penalty Order and/or respecting a Power of Decision in a proceeding that is or will be pending before a Screening Officer or Hearing Officer:

12.0 EFFECTIVE DATE

12.1 This By-law shall come into force and effect upon the date it is finally passed.

12.2 That By-law 2023-38 be and is hereby superseded.

READ A FIRST TIME AND TAKEN AS READ A SECOND AND THIRD TIME
AND FINALLY PASSED on this the 20th day of March, 2024.

Sandie Macdonald, Mayor

Lisa Lehr, Manager of Legislative Services

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SCHEDULE "A" TO BY-LAW 2023-38

Administrative Penalty Amounts for Automated Speed Enforcement

Excerpts from O. Reg. 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 (4) as applicable, to be credited to the victims' justice fund account in accordance with O. Reg 355/22 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.

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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

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

Decision

14(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 increase by \$60.

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THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2024 - 19

Being a By-law to confirm the proceedings of the Council meeting held on the 20th day of March, 2024.

THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESSA
HEREBY ENACTS AS FOLLOWS:

THAT the action of the Council at its meeting held on the 20th day of March, 2024 and, in respect of each recommendation contained in the Minutes of the Regular Council meeting held on the 6th day of March, 2024, the Minutes of the Committee of the Whole meeting held on the 6th day of March, 2024, and, in respect of each motion, resolution and other action passed and taken by Council at the said meetings, is, except where prior approval of the Ontario Municipal Board is required, hereby adopted, ratified and confirmed.

THAT the Mayor and the proper officials of the Township of Essa are hereby authorized and directed to do all things necessary to give effect to the said actions or to obtain approvals where required, and to execute all documents as may be necessary in that behalf and the Clerk is hereby authorized and directed to affix the Corporate Seal to all such documents.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND
FINALLY PASSED on this the 20th day of March 2024.

Sandie Macdonald, Mayor

Lisa Lehr, Manager of Legislative Services

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