

# Conflict of Interest and Code of Conduct Policy for the Administration of the Administrative Monetary Penalty (AMPs) System

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1	PURPOSE.....	1
2	SCOPE.....	2
3	POLICY STATEMENT .....	2
	Communication .....	2
	Appointment of Screening Officers and Hearing Officers .....	2
	Screening Officers.....	2
	Hearing Officers .....	3
	Conduct of Screening Officers and Hearing Officers .....	3
	Conflict of Interest .....	4
	Preventing Conflict of Interest.....	5
	Reporting Conflicts of Interest.....	5
	Assignment of Alternate Screening Officer or Hearing Officer .....	5
4	RESPONSIBILITY.....	6
	Compliance, monitoring and review .....	6
	Reporting.....	6
	Records management.....	6
5	DEFINITIONS .....	6
6	RELATED DOCUMENTS AND LEGISLATION .....	8
7	FEEDBACK.....	8
8	APPROVAL AND REVIEW DETAILS.....	8

## 1 PURPOSE

- 1.1 Ontario Regulation 333/07 (“the Regulation”) pursuant to the *Municipal Act, 2001* requires a municipality establishing an AMPs system for parking to have a policy relating to conflicts of interest. In accordance with the Regulation, the policy must define what constitutes a conflict of interest in relation to AMPs and contain provisions to prevent such conflicts and a means of redress, should such conflicts occur.

This policy addresses conflict of interest provisions in relation to the administration of AMPs. The policy sets out requirements relating to Screening Officers, Hearing Officers and Town staff in order to prevent actual, potential and perceived conflicts of interest, and to ensure that AMPs responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity.

## 2 SCOPE

- 2.1 This Policy applies to all Screening Officers, Hearing Officers, and Town employees involved in the administration of the Town's AMPs program.

The following shall apply in addition to this Policy:

- a) For Town employees involved in the administration of the AMPs program: the Staff Code of Conduct shall also apply in regard to the activities of an employee in the administration of the AMPs program. In the event of a conflict between the provisions of this Policy and the provisions of the Staff Code of Conduct in relation to AMPs, this Policy shall supersede.
- b) For Hearing Officers: the provisions of any agreement governing the retainer between the Town and a Hearing Officer(s) shall also apply in regard to the activities of the Hearing Officer. In the event of a conflict between this Policy and the agreement, the provisions of this Policy shall supersede.

This Policy shall apply in addition to all applicable law (i.e. the *Municipal Conflict of Interest Act*, etc.). A breach of applicable law relevant to any matters set out in this Policy shall be deemed to be a breach of this Policy.

## 3 POLICY STATEMENT

- 3.1 The Town of Bradford West Gwillimbury is committed to ensuring that the AMPs System operates in a fair and impartial manner, free of conflicts of interest.

### Communication

- 3.2 This Policy will be posted on the Town's website.
- 3.3 This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and AMPs enforcement and administration staff.

### Appointment of Screening Officers and Hearing Officers

- 3.4 The Screening and Hearing Officer By-law and Policy for Appointment of Screening and Hearing Officers, establish the rules regarding the appointment of Screening Officers and Hearing Officers.

Screening and Hearing Officers shall be appointed and recruited in accordance with the Policy for Appointment of Screening and Hearing Officers.

### Screening Officers

- 3.5 Screening Officers are employees of the Town and therefore must also abide by the Staff Code of Conduct and all Corporate policies.
- 3.6 Screening Officers must be and appear to be impartial at all times. Screening Officers shall not review a Penalty Notice for a personal or business acquaintance or Relative.

## Hearing Officers

- 3.7 Hearing Officers, in conducting a Hearing Review, are bound by and shall comply with the *Statutory Powers Procedures Act*, as well as general administrative common law principles (i.e. procedural fairness, natural justice, impartial and unbiased decision making, etc.).

Hearing Officers must be and appear to be impartial at all times. A Hearing Officer shall not review a Screening Decision for a personal or business acquaintance or Relative.

Hearing Officers must also abide by the terms of any agreement governing the retainer between the Hearing Officer and the Town.

## Conduct of Screening Officers and Hearing Officers

- 3.8 All Screening Officers and Hearing Officers shall:

- a) both be and appear to be independent, impartial, and unbiased;
- b) avoid all conflicts of interest, whether real, potential or perceived, and promptly take appropriate steps to disclose, resolve, or obtain advice with respect to any such conflict should it arise;
- c) not represent any Person at a Screening Review or Hearing Review;
- d) not dispute their own Penalty Notices and are expected to pay the Penalty Notice in a timely manner;
- e) not be influenced by partisan interests, public opinion, or by fear of criticism;
- f) not use their title and position to promote their own interests or the interests of others;
- g) discharge their duties in accordance with the law, Town By-laws and AMPs policies, procedures and guidelines in effect from time to time;
- h) maintain and upgrade their knowledge and competence through their work, by participating in training and education courses as required by the Town, including training relating to implicit bias, and by seeking guidance from their colleagues and the Town, as necessary;
- i) remain up to date on changes in the law, Town By-laws, policies and procedures relevant to their function;
- j) act with integrity, as they are subject to ongoing public scrutiny;
- k) respect and comply with the law and conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of AMPs;
- l) approach their duties in a calm and courteous manner when dealing with the public and others and present and conduct themselves in a manner consistent with the integrity of AMPs and with their appointment;

- m) convey their decisions in plain language, including the reasons therefor where such are required;
- n) safeguard the confidentiality of information that comes to them by virtue of their work and not disclose that information except as required by, and in accordance with, the law;
- o) in discharging their duties, treat those with whom they deal with in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those Persons, and without limiting the foregoing, comply in all respects with the Ontario Human Rights Code;
- p) refrain from openly and publicly criticizing the administration of AMPs or the conduct of others, including Town employees or members of Council. Screening Officers and Hearing Officers shall acknowledge that only the Director or Manager of Enforcement may speak publicly on behalf of the Town's AMPs program. Any criticisms, suggestions or concerns related to AMPs shall be communicated through appropriate channels to the Director or the Manager of Enforcement;
- q) deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services; and
- r) not knowingly exercise a power or function for which they have not been trained or designated.

### **Conflict of Interest**

3.9 A conflict of interest arises where a Screening Officer, Hearing Officer or Town employee involved in the administration of AMPs, or any Relative of same, has a direct or indirect personal or financial interest:

- a) such that they could influence a decision made in relation to AMPs;
- b) that may affect the performance of their job duties in relation to AMPs;
- c) that conflicts, might conflict, or may be perceived to conflict with the interests of the proper administration of AMPs; or
- d) that may adversely affect the reputation of the Town as a public authority in relation to AMPs.

A conflict of interest includes a pecuniary or non-pecuniary interest, actual, perceived or potential conflict, that could arise in relation to personal or financial matters, including but not limited to:

- a) directorships or employment;
- b) interests in business enterprises or professional practices;
- c) share ownership or beneficial interests in trusts;

- d) professional or personal associations with a Person;
- e) professional associations or relationships with other organizations;
- f) personal associations with other groups or organizations; or
- g) family relationships, including Relatives.

### **Preventing Conflict of Interest**

- 3.10 Without limiting the foregoing, Screening Officers, Hearing Officers, and all persons involved in the administration of AMPs shall avoid activities or circumstances that create conflicts, whether real, potential or perceived, between their personal interests and their responsibilities in relation to AMPs, including situations where their personal interests or the perception that their personal interests could influence any decisions they make on behalf of the Town. Any obligation, interest, or participation, which would or could interfere with the fair and impartial administration of AMPs or the exercise of judgment in relation to AMPs, constitutes conflict of interest.

The keys to preventing conflicts of interest are identification, disclosure, and withdrawal from the Power of Decision with respect to a Screening Review or Hearing Review.

The need for identification, disclosure and withdrawal from a Power of Decision or administrative role in relation to AMPs applies to any real, potential, or perceived conflict of interest.

### **Reporting Conflicts of Interest**

- 3.11 Every Screening Officer, Hearing Officer or Town employee involved in the administration of AMPs, must disclose, in accordance with this Policy, any obligation, commitment, relationship or interest that poses a real, potential, or perceived conflict with his or her duties in relation to or interests in the administration of AMPs.

Screening Officers and Town employees involved in the administration of AMPs shall notify the Manager of Enforcement of any conflict of interest, real, potential, or perceived, that they may have in relation to a matter.

If a Hearing Officer becomes aware of any real, potential, or perceived conflict of interest, the Hearing Officer shall notify the Manager of Enforcement.

### **Assignment of Alternate Screening Officer or Hearing Officer**

- 3.12 Where a real, potential, or perceived conflict of interest is reported by a Screening Officer or Hearing Officer, as set out in this Policy:
- a) in the case of a review of a Screening Review or Hearing Review that has not yet commenced, the Manager of Enforcement shall assign another Screening Officer or Hearing Officer to conduct the review to avoid actual, potential, or perceived conflict of interest; or

- b) in the case of a review of a Screening Review or Hearing Review that has commenced:
  - i) the Screening Officer or Hearing Officer, as the case may be, shall adjourn the review and withdraw from the Power of Decision; and
  - ii) the Manager of Enforcement shall cause the Screening Review or Hearing Review to be recommenced and rescheduled with another Screening Officer or Hearing Officer.

If all appointed Screening Officers and/or Hearing Officers have a conflict of interest with a matter, the Manager of Enforcement shall retain another Screening Officer or Hearing Officer to handle the matter that is the subject of the conflict of interest.

3.13 The Manager of Enforcement may consult with the Director, or his/her designate, for further guidance in regard to this Policy.

## 4 RESPONSIBILITY

### Compliance, monitoring and review

4.1 The Enforcement Division shall be responsible for the development, approval, implementation, training, monitoring and compliance of and with the policy.

### Reporting

4.2 No additional reporting is required.

### Records management

4.3 Staff must maintain all records relevant to administering this policy in a recognized Town recordkeeping system in accordance with the Town Records Management policies and procedures.

## 5 DEFINITIONS

**“Administrative Monetary Penalty By-law”** means the By-law passed by the Town to establish administrative penalties (“AMPs”), as amended from time to time, or any successor thereof;

**“AMPs”** means the Administrative Monetary Penalty system, established pursuant to the Town’s Administrative Monetary Penalty By-law;

**“Council”** means the Council of the Town;

**“Director”** means the Director of Corporate Services for the Town, or his or her designate;

**“Hearing Officer”** means any person appointed pursuant to the Screening and Hearing Officer By-law, to perform the functions of a hearing officer in accordance with the Screening and Hearing Officer By-law and the Administrative Monetary Penalty By-law;

**“Hearing Review”** means the process related to review of a Screening Decision, as set out in Section 6 of the Administrative Monetary Penalty By-law;

**“Manager of Enforcement”** means the Enforcement Division’s leader, or anyone designated by the Manager of Enforcement to perform his or her duties relating to AMPs;

**“Parent”** means a person who has demonstrated a settled intention to treat a child as a member of his or her family, whether or not that person is the natural parent of the child;

**“Penalty Notice”** means a penalty notice as described in Section 2.2 of the Administrative Monetary Penalty By-law;

**“Person”** includes an individual or a corporation;

**“Policy for Appointment of Screening and Hearing Officers”** means the policy adopted by the Town to govern the appointment of Screening and Hearing Officers, as amended from time to time, or any successor thereof;

**“Power of Decision”** means a power or right, conferred by or under the Administrative Penalty By-law, to make a decision about or prescribing the legal rights, powers, privileges, immunities, duties or liability of any Person;

**“Relative”** includes any of the following persons:

- (a) spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
- (b) Parent or legal guardian;
- (c) child, including a step child and grandchild;
- (d) siblings and children of siblings;
- (e) aunt, uncle, niece and nephew;
- (f) in-laws, including mother, father, sister, brother, daughter and son; or
- (g) any person who lives with the person on a permanent basis;

**“Screening and Hearing Officer By-law”** means the By-law passed by the Town to establish the positions of Screening and Hearing Officers and to provide for the appointment of Screening and Hearing Officers, in relation to administrative penalties, as amended from time to time, or any successor thereof;

**“Screening Decision”** means a notice which contains the decision of a Screening Officer, as set out in Section 7.3 of the Administrative Monetary Penalty By-law;

**“Screening Officer”** means any person appointed pursuant to the Screening and Hearing Officer By-law, to perform the functions of a screening officer in accordance with the Screening and Hearing Officer By-law and the Administrative Monetary Penalty By-law;

**“Screening Review”** means the process related to the review of a Penalty Notice, as set out in Section 5 of the Administrative Monetary Penalty By-law;

**“Staff Code of Conduct”** means any policy adopted by the Town to govern employee conduct, provide ethical standards and conflict of interest, as amended from time to time, or any successor thereof;

“**Statutory Powers Procedure Act**” means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended from time to time, or any successor thereof; and

“**Town**” means The Corporation of the Town of Bradford West Gwillimbury.

## 6 RELATED DOCUMENTS AND LEGISLATION

- AMPs Financial Management Policy
- AMPs Political Interference Policy
- AMPs Public Complaints Policy
- AMPs Screening and Hearing Officer Policy
- AMPs Undue Hardship Policy
- Statutory Powers and Procedures Act (Ontario)
- Administrative Monetary Penalties By-law (Bradford West Gwillimbury)
- Appointing Screening and Hearing Officers By-law (Bradford West Gwillimbury)
- By-law 2022-73 – Amendment to Traffic By-law (Bradford West Gwillimbury)

## 7 FEEDBACK

7.1 Feedback about this document may be provided by emailing the Manager of Enforcement.

## 8 APPROVAL AND REVIEW DETAILS

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# **Document Approval**

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