



<b>POLICY:</b>	<b>Screening &amp; Hearing Officer Conflict of Interest</b>	<b>NO. OF PAGES: 6</b>
<b>SECTION:</b>	<b>Administrative Penalty System for Parking and Non-Parking Related Offences</b>	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b>	<b>Mar 25, 2024</b>	

**Policy Statement**

The Town of Milton has adopted an Administrative Penalty System (APS) for the dispute resolution and administration of parking and non-parking by-law offences within the Town of Milton.

The Town has authorized the appointment and use of Screening Officers and a Hearing Officer to adjudicate disputes related to Penalty Notices issued for non-compliance of municipal by-laws.

In accordance with Ontario regulation 333/07, the Town is required to develop a policy to address public complaints regarding the administration of the APS program. The same policies will apply to the APS Non-Parking program.

**Purpose**

To provide a standardized guideline to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur.

This policy is to establish conflict of interest guidelines to ensure that the APS program administration is conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity.



## Application

This policy applies to the person(s) appointed by the Town of Milton as a Screening or Hearing Officer, and all Town officials and any employee involved in the administration of APS program.

## Definitions

For the purpose of this policy, the following definitions are to be interpreted:

“**APS**” means Administrative Penalty System

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

“**Delegated Power of Decision**” means a power or right, conferred by or under a Town By-Law, to make a decision deciding or prescribing, the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or the eligibility of any person or party to receive, or to the continuation of, a benefit or license, whether the person is legally entitled thereto or not.

“**Director of Legislative & Legal Services**” means the Director of Legal and Legislative Services, or designate, or anyone designated by the Director of Legal & Legislative Services to perform duties pursuant to the Administrative Penalty System (APS)

“**Hearing Review**” means the process set out in the Administrative Penalty System program

“**Hearing Officer**” means each person appointed from time to time to perform the functions of a Hearing Officer pursuant to the APS program.

“**Penalty Notice**” means a notice given to a Person.

“**Person**” includes an individual, or a business name, sole proprietorship, corporation, partnership or an authorized representative thereof, whose name appears on the vehicle license plate portion of the permit as provided by the Ontario Ministry of Transportation is the Person for the purposes of this Policy.

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

- (i) “**Child**” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of their family;



- (ii) “Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (iii) Siblings and children of siblings
- (iv) Aunt, uncle, niece and nephew
- (v) “Parent” means a person who has demonstrated a settled intention to treat a child as a member of their family whether or not that person is the natural parent of the child or is the legal guardian

“**Screening Decision**” means a notice or report which contains the decision of a Screening Officer delivered in accordance with the APS program.

“**Screening Officer**” means each person designated by the Director of Legislative & Legal Services to perform the functions of a Screening Officer pursuant to the APS program.

“**Screening Review**” means the process set out in section the APS program.

“**Town**” means The Corporation of the Town of Milton;

The positions of Screening Officers and Hearing Officers are established for the purpose of exercising Delegated Powers of Decision.

### **Appointments of Screening Officers and Hearing Officers**

The Town’s APS By-law sets out the rules regarding the appointment of Screening Officers and Hearing Officers.

The following are not eligible for appointment or as a Screening Officer or a Hearing Officer:

- a) A member of Council or a Relative of a Member of Council
- b) An individual indebted to the Town
  - i) in respect of current real property taxes; or
  - ii) pursuant to any other outstanding arrangement with the Town the terms with which the person is not in compliance.
- (iii) is the subject of any outstanding fines or judgements as levied by any court of competent jurisdiction.
- (iv) is in tax arrears and or in the collections process with the Town.



- c) In the case of a Hearing Officer, cannot be an employee of the Town

### **Conflict of Interest**

A conflict of interest arises where a Screening Officer, Hearing Officer or Town staff involved in the administration of the APS program has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the APS program. A conflict of interest could arise in relation to personal or business matters including:

- Directorships or other employment;
- Interests in business enterprises or professional practices;
- Share ownership or beneficial interests in trusts;
- Existing professional or personal associations with a Person;
- Professional associations or relationships with other organizations; and
- Personal associations with other groups or organizations, or family relationships including Relatives.

Screening Officers and Hearing Officers have obligations to conduct Screening Reviews and Hearing Reviews in an impartial manner at all times. Hearing Officers, in conducting a Hearing Review, are bound by the Statutory Powers and Procedures Act, as well as bound by general administrative common law principles (i.e., procedural fairness, natural justice, impartial and unbiased decision-making, legitimate expectation, etc.). It would be inappropriate for a Hearing Officer to review a Screening Decision for a personal or business acquaintance or Relative (as defined above). A conflict of interest includes an actual conflict and a potential conflict.

Every Screening Officer, Hearing Officer and Town employee involved in the administration of APS, must disclose to the Director of Legislative & Legal Services any obligation, commitment, relationship or interest that could conflict or may be perceived to conflict with his or her duties to or interests in the administration of the APS program. Additionally, a Screening Officer or Hearing Officer shall not represent any Person at a Screening Review or Hearing Review

### **Conduct of Hearing Officers**

All Screening Officers and Hearing Officers shall conduct themselves in the following manner:

- Both be and appear to be independent, impartial, and unbiased.



- Avoid all conflicts of interest, whether real or perceived, and are responsible for promptly taking appropriate steps to disclose, resolve, or obtain advice with respect to such conflicts when they arise.
- Shall not be influenced by partisan interests, public opinion, or by fear of criticism.
- Shall not use their title and position to promote their own interests or the interests of others.
- Shall discharge their duties in accordance with the law, Town by-laws and APS policy, procedures and guidelines.
- Shall maintain their competence through their work, by participating in training and education courses and by seeking guidance from their colleagues with the Town, as required.
- Shall remain up to date on changes in the law Town by-laws, policy and procedures relevant to their function.
- Are subject to ongoing public scrutiny and therefore they must 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 the APS program.
- Shall approach their duties in a calm and courteous manner when dealing with the public and others and should present and conduct themselves in a manner consistent with the integrity of the APS system and their appointment.
- Shall convey in plain language their decisions and the reasons therefore where such are required.
- Must safeguard the confidentiality of information that comes to them by virtue of their work and should not disclose that information except as required by law.
- In discharging their duties, must treat those with whom they deal in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those Persons.
- With administration of natural justice paramount
- Shall refrain from openly and publicly criticizing the administration of the APS program or the conduct of others. Any criticisms, suggestions, or concerns related to the APS program should be communicated only Director of Legislative & Legal Services. Shall deal with the tasks that come before them in a timely manner and should make themselves accessible to those requiring their services.
- Must not knowingly exercise a power or function for which they have not been designated.

### **Preventing Conflict of Interest**

The keys to preventing conflicts of interest are: identification, disclosure and withdrawal from the power of decision in regards to a Screening Review or Hearing Review.



The need for identification, disclosure and withdrawal from a power of decision applies to any real or perceived conflict of interest.

### **Disclosure**

If a Screening Officer or Hearing Officer becomes aware of any real, perceived or potential conflict of interest in regard to a review of an administrative penalty or Screening Decision, as the case may be, the Hearing Officer shall notify the Town designate, of the conflict of interest and;

- In the case of a scheduled review of a Penalty Notice or a Screening Decision that has not yet commenced, can request another Screening Officer or Hearing Officer to conduct the review to avoid actual, potential or perceived conflicts of interest.
- In the case of a review of Penalty Notice or Screening Decision that has commenced, adjourn the review and withdraw from the power of decision and advise the Director of Legislative & Legal Services or designate. The Town will reschedule the Screening Review or Hearing Review with another Screening Officer or Hearing Officer to handle the matter that is subject to the conflict of interest

Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notices and are expected to pay the administrative penalty for any by-law infraction in a timely manner.