



## Municipality of Hastings Highlands - Corporate Policies and Procedures

<b>DEPARTMENT:</b> Administration	<b>POLICY #:</b>		
<b>POLICY:</b> Screening and Hearing Review Process for the Administration of the Administrative Penalty System			
<b>DATE:</b> June 18, 2025	<b>REV. DATE:</b>	<b>COVERAGE:</b> Members of Council, Municipal Staff, Screening Officers, Hearing Officers	<b>PAGE #:</b> 1-12

### 1. Policy Statement

The Municipality of Hastings Highlands is committed to the fair, consistent, and efficient enforcement of its bylaws through the Administrative Penalty System (APS). This Policy establishes clear procedures to support the timely and transparent issuance, review, and resolution of administrative penalties.

By providing a structured, accessible process, the APS helps ensure accountability, promotes voluntary compliance, and reduces reliance on the provincial court system, in accordance with applicable legislation.

### 2. Purpose

The purpose of this Policy is to provide procedures for Screening and Hearing reviews conducted pursuant to the Municipality's Administrative Penalty System Bylaw. It establishes a fair, transparent, and consistent process for individuals to dispute administrative penalties issued under applicable municipal bylaws.

This Policy outlines the roles and responsibilities of Screening Officers and Hearing Officers, timelines for requests and decisions, and standards for procedural fairness. It is intended to ensure that all parties are heard and that decisions are made fairly, impartially, and in accordance with established procedures.

### 3. Scope

This Policy applies to all elected Members of Council, Screening Officers, Hearing Officers and Municipal staff involved in the enforcement and administration of APS.

#### **4. Definitions**

For the purposes of this Policy, the following definitions are defined in accordance with the APS Bylaw:

**Administrative Fee** means any fee specified in the Administrative Penalty Systems Bylaw or its Schedule 'B';

**Administrative Penalty** means an administrative penalty established by the Administrative Penalty Systems Bylaw for a contravention of a Designated Bylaw, as defined therein;

**APS** means Administrative Penalty System;

**Administrative Penalty Systems Bylaw** means the bylaw passed by the Municipality to establish administrative penalties for Designated Bylaws, as amended from time to time, or any successor thereof;

**Chief Administrative Officer or CAO** means the employee who is responsible for exercising general control or management of the administration and affairs of the Municipality and other duties as directed by Council;

**Council** means the Council of the Corporation of the Municipality of Hastings Highlands;

**Council Code of Conduct** means the Code of Conduct for Members of Council, adopted by the Municipality to govern the conduct of Members of Council, as amended from time to time, or any successor thereof;

**Designated Bylaw** means a bylaw, or a part or provision of a bylaw, that is designated under the Administrative Penalty Systems Bylaw;

**Code of Conduct and Ethics** means the Policy adopted by the Municipality to govern employee conduct, provide ethical standards and address conflicts of interest, as amended from time to time, or any successor thereof;

**Hearing Officer** means any person who is appointed, from time to time, to perform the functions of a Hearing Officer in accordance with the Administrative Penalty Systems Bylaw;

**Hearing Review** means the process related to review of a screening decision;

**Mitigating or Extenuating Circumstances** means unforeseen or exceptional situations beyond a person's control that can justify or explain a failure to meet a requirement or deadline. These circumstances are typically serious and must significantly impact a person's ability to act within the expected time frame.

**Municipality** means the Corporation of the Municipality of Hastings Highlands;

**Municipal Freedom of Information and Protection of Privacy Act** means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56, as amended from time to time, or any successor thereof;

**Officer** means a Municipal Bylaw Enforcement Officer, Chief Building Official, Fire Chief or designate appointed by the Municipality to administer and enforce the Administrative Penalty Systems Bylaw;

**Penalty Notice** means a formal notification issued by an Officer informing an individual or organization that they have violated a bylaw in accordance with the Administrative Penalty Systems Bylaw;

**Person** mean and includes any individual, association, firm, partnership, incorporated company, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

**Power of Decision** means a power or right, conferred by or under the Administrative Penalty Bylaw, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any person;

**Screening Officer** means any person who is appointed, from time to time, to perform the functions of a Screening Officer in accordance with the Administrative Penalty Systems Bylaw;

**Screening Review** means the process related to review of a Penalty Notice.

## **5. Policy Communication and Training**

- 5.1. This Policy will be posted on the Municipality's website.
- 5.2. Staff will be advised of the new Policy via distribution through the Senior Leadership Team.
- 5.3. Members of Council shall be provided with a copy of this Policy.
- 5.4. This Policy shall form part of the orientation for all Members of Council at the start of a new term of Council.
- 5.5. This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and all those involved in the enforcement and administration of APS.

## **6. Screening Officer and Hearing Officer Review, Extension, and Decision Guidelines**

### **7. Screening Officer and Hearing Officer Review**

- 7.1. A Person who receives an Administrative Penalty may request a review by a Screening Officer and, if unresolved, by a Hearing Officer.
- 7.2. Submission requirements, procedures, and decision criteria for Screening and Hearing Review Requests are governed by the Municipality's APS Bylaw, this policy, and related policies and procedures.
- 7.3. A Person's right to request a Screening or Hearing Review are exercised by:
  - Submitting a 'Screening or Hearing Review Request Form' in the manner, form and timeline prescribed on the Penalty Notice and in the APS Bylaw. Screening and Hearing Review Request Forms are available on the Municipality's website, in-person or by mail (upon request).
  - Submitting all relevant supporting documentation—such as written statements, photographs, or records—necessary to substantiate the request.

### **8. Screening Officer and Hearing Officer Review - Decision-Making Guidelines**

#### **8.1. Authority of the Screening Officer and Hearing Officer**

The Screening Officer and Hearing Officer are appointed pursuant to the Municipality's APS Bylaw. The Officers may affirm, cancel, or vary the penalty and any associated administrative fees in accordance with applicable policies and procedures.

#### **8.2. Screening Review Request Submission**

A Person seeking a Screening Review must submit a completed Screening Review Request Form within the timelines specified in the Penalty Notice and as outlined in the APS Bylaw. The submission must include all relevant supporting documentation deemed necessary to substantiate the grounds for the review.

#### **8.3. Preliminary Assessment**

Upon receipt, the Screening Officer or Hearing Officer will conduct an initial assessment to determine if the submission complies with procedural requirements and contains sufficient information to proceed.

#### **8.4. Interview**

Prior to rendering a decision, the Officer shall conduct an interview with the Person by one of the following methods:

- Telephone;
- Virtual meeting platform (e.g., Zoom, Microsoft Teams);
- In-person at the Municipal Office (33011 Hwy 62, Maynooth, ON).

The interview method will be determined based on availability, the Person's preference, and any accommodation needs.

#### **8.5. Application of Decision-Making Guidelines**

Decisions shall be guided by the 'Decision-Making Guidelines' detailed in Appendix 'A' of this policy, which are informed by the APS Bylaw and other relevant municipal policies.

The Officer will consider all evidence, mitigating or extenuating circumstances, and any applicable legal provisions.

#### **8.6. Issuance of Decision**

The Officer shall issue a written decision within the timeline specified by the APS Bylaw.

The decision will affirm, cancel, or vary the Administrative Penalty and any related fees and provide reasons for the outcome.

#### **8.7. Right to Appeal to Hearing Officer**

If dissatisfied with the Screening Officer's decision, the Person may request a Hearing Officer review by submitting an appeal within the prescribed timeline. The Hearing Officer's review is final and binding.

#### **8.8. Finality and Enforcement**

Upon conclusion of the Hearing Officer's decision, or if no further review is requested within applicable timelines, the Administrative Penalty (as affirmed or varied) shall be deemed final and enforceable. Failure to comply with a final Administrative Penalty may result in enforcement actions as prescribed under the APS Bylaw and applicable legislation.

#### **8.9. Record-Keeping**

All Screening and Hearing Review requests, supporting documentation, interview notes, and final decisions shall be retained in accordance with municipal records retention policies to ensure transparency and accountability.

### **9. Extension of Time to Request a Screening Review or Hearing Review**

9.1. A Person's right to request an Extension of Time to Request a Screening Review or Hearing Review is governed by the Municipality's APS Bylaw and supporting policies, including the Extension of Time Policy.

9.2. A Person's right to request an Extension of Time to Request a Screening Review or Hearing Review is exercised by:

- Submitting an Extension of Time to Request a Screening Review or Hearing Review' in the manner, form and timeline prescribed on the Penalty Notice and as outlined in the APS Bylaw. Request Forms are available on the Municipality's website, in-person or by mail (upon request)

9.3. Extension of Time Requests shall be granted by the Screening Officer or Hearing Officer in accordance with the 'Decision Making Guidelines' outlined in Appendix 'A' of the

‘Screening and Hearing Review Process for the Administration of APS’ policy, which is informed by the APS Bylaw and applicable supporting policies.

- 9.4. Such requests will be approved where the Person establishes, on a balance of probabilities, the presence of mitigating or extenuating circumstances that prevented the timely submission of a Screening Review or Hearing Review.
- 9.5. Mitigating or extenuating circumstances will be considered valid only when supported by appropriate documentation, such as a medical certificate, death certificate, or police report (see Appendix ‘A’). Such documentation is required to be submitted with the Extension of Time Request Form.
- 9.6. Where an extension of time to request a Screening Review or Hearing Review is not granted by the Screening Officer or Hearing Officer, the Administrative Penalty and any applicable Administrative Fee(s) are deemed to be confirmed.
- 9.7. The Officer shall issue a written decision on the Extension of Time Request within the timeline prescribed in the APS Bylaw. The decision shall grant or deny the request and shall include written reasons, based on whether the Person has established, on a balance of probabilities, the existence of mitigating or extenuating circumstances in accordance with this policy and applicable guidelines.

## Appendix 'A'

### Decision-Making Guidelines for Screening and Hearing Officers

#### Purpose and Legislative Context

These guidelines have been developed to assist Screening Officers and Hearing Officers in exercising their authority under the Municipality's Administrative Penalty System (APS) Bylaw in a manner that is fair, transparent, and consistent with governing legislation. Specifically, these guidelines are informed by and supported through compliance with Ontario Regulation 333/07 under the *Municipal Act, 2001*, which requires that all municipalities administering an APS establish clear and accountable policies and procedures. In accordance with section 7 of O. Reg. 333/07, this includes:

- Policies and procedures to prevent political interference in the administration of the system;
- Guidelines to define and prevent conflicts of interest, and redress them when they occur;
- Policies and procedures regarding financial management and reporting related to APS;
- Procedures for the filing and processing of complaints from the public concerning the APS.

While these supporting policies are not reproduced in detail within this appendix, they form an essential legal and procedural foundation for the fair administration of APS in the Municipality of Hastings Highlands.

The Decision-Making Guidelines provided are intended to ensure that every review of a Penalty Notice is procedurally fair, legally compliant, and grounded in the principles of proportionality, accountability, and consistency. Screening Officers and Hearing Officers are responsible for determining whether to affirm, vary, or cancel a penalty, or to grant or deny an Extension Review Request, based on an objective assessment of all relevant facts, evidence, and applicable municipal policies.

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#### 1. Jurisdiction and Validity of the Penalty

Before proceeding to the merits of the matter, Screening Officers and Hearing Officers must confirm that the Municipality has the authority to issue Administrative Penalties for the alleged contravention and that the Officer is properly appointed under the APS Bylaw. This includes verifying that:

- The bylaw in question is designated for APS enforcement;
- The Penalty Notice was properly issued and served;
- The Officer has jurisdiction to conduct the review.

Where jurisdiction is lacking or procedural deficiencies render the Penalty Notice invalid, the matter must not proceed, and the penalty should be cancelled.

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## 2. Determination of Contravention

The Officer must determine, on a **balance of probabilities**, whether the contravention occurred. This assessment must be based on a review of:

- The Penalty Notice and supporting materials from the issuing officer;
- Any submissions, documents, or photographs presented by the Person;
- The credibility and reliability of all evidence provided.

If the Officer is not satisfied that the contravention more likely than not occurred, the penalty must be cancelled.

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## 3. Procedural Fairness and Natural Justice

The Officer must ensure that the Person was provided with:

- Timely and adequate notice of the Screening or Hearing Review;
- A reasonable opportunity to present submissions and respond;
- Access to accommodations, language assistance, or procedural support as required.

Where procedural fairness is compromised—whether through lack of notice, insufficient opportunity to respond, or barriers to participation—the Officer may defer the review or cancel the penalty where necessary to preserve the integrity of the process.

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## 4. Mitigating and Extenuating Circumstances

The Officer must consider whether the Person has presented valid mitigating or extenuating circumstances that explain the contravention or their failure to respond in a timely manner. These may include:

- i. Medical emergencies
- ii. Death or serious illness of a close relative
- iii. Natural disasters or extreme weather events
- iv. Legal obligations (e.g., court appearances)
- v. Accidents or unexpected travel disruptions

To be considered valid, such circumstances will require the Person to submit some form of supporting documentation (e.g., a doctor's note, death certificate, police report, etc.) with their Request for an Extension.

A Screening Officer or Hearing Officer may request documentation to support such claims and must assess their relevance and credibility. Where justified, such circumstances may support extension of the Screening or Hearing Review Request Process or variation of cancellation of the penalty.

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## 5. Undue Hardship Considerations

Where the Person does not contest the contravention but requests relief due to hardship, the Officer may vary the penalty amount or extend the time for payment. This determination should be based on:

- Evidence of financial distress or inability to pay;
- Physical or mental health limitations;
- Social or personal hardship that materially affects the Person's ability to comply.

Screening Officers and Hearing Officers may adjust payment terms in accordance with the Municipality's Undue Hardship Policy, ensuring that relief is reasonable and proportionate.

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## 6. Conduct, Good Faith, and History of Compliance

The Officer may consider the overall conduct of the Person, including:

- Whether they attempted to comply with the bylaw before or after the contravention;
- Whether they proactively communicated with the Municipality;
- Whether the incident was isolated or part of a pattern of non-compliance.

Evidence of good faith and a willingness to resolve the matter may support leniency, while repeat violations or disregard for the bylaw may support affirmation of the penalty.

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## 7. Discretion, Proportionality, and Public Interest

Screening Officers and Hearing Officers must exercise discretion judiciously and in accordance with the objectives of the APS regime. The penalty must be proportionate to the nature and seriousness of the contravention and must serve the public interest, which includes:

- Promoting voluntary compliance;
- Upholding municipal standards and bylaws;
- Ensuring fairness and transparency in enforcement.

Decisions must be supported by evidence, consistent with past determinations in similar circumstances, and responsive to the facts of the case.

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## 8. Determining the Outcome: Extension of Time Requests and Decisions to Affirm, Cancel, or Vary

### Determination of Extension of Time Requests for Screening and Hearing Review

An Extension of Time Request should be granted where:

- The Person establishes, on a balance of probabilities, the existence of mitigating or extenuating circumstances that reasonably prevented timely submission of the review request;
- Supporting documentation has been provided to substantiate the claimed circumstances (e.g., medical notes, legal summons, death certificates, etc.);
- Granting the extension supports procedural fairness and does not undermine the integrity of the process.

**An Extension of Time Request should be denied where:**

- No credible basis or documentation has been provided;
- The reasons presented do not meet the threshold for mitigating or extenuating circumstances;
- There is evidence of undue delay or lack of good faith in pursuing the review.

**Affirmation of the Penalty**

**Affirmation is appropriate where:**

- The contravention is established on the balance of probabilities;
- No credible mitigating or extenuating circumstances have been presented;
- Procedural fairness has been upheld;
- The penalty is proportionate and supported by the facts.

**Cancellation of the Penalty**

Cancellation is appropriate where:

- Jurisdiction is lacking or the notice is procedurally invalid;
- The contravention is not proven;
- Significant procedural unfairness occurred;
- Mitigating circumstances wholly justify cancellation.

Cancellation should be reserved for circumstances where fairness or legality demands it.

**Variation of the Penalty**

Variation of the administrative penalty is appropriate where:

- The contravention has occurred, but relevant mitigating factors exist;
- The person demonstrates undue hardship;
- Adjusting the penalty better promotes fairness and proportionality.

Variations may include reducing the monetary penalty, extending payment deadlines, or implementing a payment plan, all in accordance with established municipal policies.

## Undue Hardship Penalty Reduction Scale

Level of Hardship Description	Recommended Penalty Reduction	Considerations and Examples	
<b>No Hardship</b>	No evidence or insufficient evidence of hardship; full penalty applies.  Minor financial or personal impact; hardship is evident but manageable without undue difficulty.	0%  Up to 20% reduction	Standard penalty enforced without adjustment.  Minor financial inconvenience or limited personal impact.
<b>Moderate Hardship</b>	Noticeable financial or personal difficulty affecting ability to pay the full penalty.	21% to 40% reduction	Temporary income loss or constrained financial resources.
<b>Severe Hardship</b>	Significant financial distress or personal circumstances making the full penalty unduly burdensome.	41% to 70% reduction	Disability, chronic illness, or loss of primary income source.
<b>Extreme Hardship</b>	Imposition of the full penalty would cause substantial risk to essential living conditions.	71% to 90% reduction	Risk of homelessness or inability to meet basic living expenses.
<b>Exceptional Circumstances</b>	Extraordinary conditions warranting near-total or full waiver of the penalty.	91% to 100% reduction	Catastrophic events such as natural disasters or severe hardship.

## Procedure

### 1. Claim Submission:

The individual or entity requesting a hardship-based penalty reduction must submit a written request, including supporting documentation that demonstrates the nature and extent of the hardship.

### 2. Assessment:

The Screening Officer or Hearing Officer will assess the request, considering financial, personal, and social impacts, applying the Undue Hardship Penalty Reduction Scale as a guide.

### 3. Decision:

Based on the evidence provided, the Screening Officers and Hearing Officer will determine an appropriate penalty reduction within the prescribed ranges.

### 4. Documentation:

All decisions must be clearly documented, including the rationale for the reduction, and retained for audit and appeal purposes.

### 5. Appeal:

Decisions made under this framework may be appealed in accordance with the Municipality's Administrative Penalty System Appeal Procedures.

## **9. Conflict of Interest and Political Independence**

Screening Officer and Hearing Officers must act independently and free from external influence. Screening Officers and Hearing Officers must:

- Disclose any actual or perceived conflict of interest;
- Refrain from participating in reviews involving family, close associates, or prior relationships;
- Report any attempt at political interference or undue influence.

These obligations align with O. Reg. 333/07 and support the impartial administration of the APS.

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## **10. Decision Documentation and Communication**

Each decision must be written and must include:

- A summary of the evidence and facts considered;
- The decision outcome (affirmed, varied, or cancelled);
- A clear rationale for the decision, referencing applicable legislation and policies;
- Information on next steps, such as payment instructions or further appeal options.

Decisions must be served in the manner required by the APS Bylaw (e.g., email, regular mail, in-person), and must comply with recordkeeping requirements.

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## **11. Accountability, Consistency, and Public Confidence**

Screening Officers and Hearing Officers are expected to apply these guidelines consistently and professionally to support the integrity of the APS. Decisions should be principled, defensible, and respectful of the rights of individuals while upholding the Municipality's interest in bylaw compliance. Consistent application across similar cases strengthens public trust and ensures that the APS remains an effective and just enforcement mechanism.

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### **Summary Table – Officer's Decision Checklist**

<b>Decision Factor</b>	<b>Reviewed?</b>	<b>Notes</b>
Jurisdiction and Validity	✓ / X	
Contravention Proven	✓ / X	
Procedural Fairness	✓ / X	

<b>Decision Factor</b>	<b>Reviewed?</b>	<b>Notes</b>
Mitigating/Extenuating Circumstances	✓ / X	
Undue Hardship	✓ / X	
Good Faith Conduct	✓ / X	
Appropriate Use of Discretion	✓ / X	
Conflict of Interest Disclosure	✓ / X	
Decision Documented and Served	✓ / X	