



Municipality of Hastings Highlands - Corporate Policies and Procedures			
<b>DEPARTMENT:</b> Administration			<b>POLICY #:</b>
<b>POLICY:</b> Conflict of Interest for the Administration of the Administrative Penalty System			
<b>DATE:</b> June 18, 2025	<b>REV. DATE:</b>	<b>COVERAGE:</b> Screening Officers, Hearing Officers, Members of Council, Municipal Staff	<b>PAGE #:</b> 1-7

## 1. Policy Statement

The Municipality of Hastings Highlands is committed to ensuring that the Administrative Penalty System operates in a fair and impartial manner, free of conflicts of interest.

## 2. Purpose

- 2.1. Ontario Regulation 333/07 pursuant to the *Municipal Act, 2001* requires a municipality establishing an Administrative Penalty System (APS) 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 APS, contain provisions to prevent such conflicts and to redress such conflicts should they occur.
- 2.2. The Policy sets out requirements relating to Screening Officers, Hearing Officers and Municipal staff in order to prevent actual, potential and perceived conflicts of interest, and to ensure that APS responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity.

## 3. Scope

- 3.1. This Policy applies to all elected Members of Council, Screening Officers, Hearing Officers and Municipal staff involved in the enforcement and administration of APS.
- 3.2. For Municipal staff engaged in the administration of APS, the Code of Conduct and Ethics Policy, and any successor Policy, shall also apply in regard to the activities of an employee in the administration of APS.

3.3. In regard to Members of Council, this Policy should be read and interpreted within the context of prevailing Provincial legislation (i.e., *Municipal Conflict of Interest Act*) and the Council Code of Conduct, including its related policies, procedures and guidelines.

#### 4. Definitions

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

**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;

**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;

**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, including but not limited to a dependent, who lives with the Person on a Permanent basis;

**Screening Decision** means a notice which contains the decision of a Screening Officer;

**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.

**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;

## **5. Policy Communication**

- 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. Appointments of Screening Officers and Hearing Officers**

- 6.1. The Municipality's APS Bylaw sets out the rules regarding the appointment of Screening Officers and Hearing Officers.
- 6.2. The following are not eligible for appointment as a Screening Officer or Hearing Officer:
  - (a) a Member of Council
  - (b) a Relative of a Member of Council
  - (c) an individual indebted to the Municipality other than in respect of current real property taxes
  - (d) in the case of a Hearing Officer, an employee of the Municipality.

## **7. Conflict of Interest**

- 7.1. A conflict of interest arises where a Screening Officer, Hearing Officer or Municipal staff involved in the administration of the APS program, 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 APS;
  - (b) that may affect the performance of their job duties in relation to APS;
  - (c) that conflicts, might conflict, or may be perceived by an objective, reasonable person to conflict with the interests of the proper administration of APS; or
  - (d) that may adversely affect the reputation of the Municipality as a public authority in relation to APS.

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

- i. directorships or employment;
- ii. interests in business enterprises or professional practices;
- iii. share ownership or beneficial interests in trusts;
- iv. professional or personal associations with a Person;
- v. professional associations or relationships with other organizations;
- vi. personal associations with other groups or organizations; or
- vii. family relationships, including Relatives.

7.3. Screening Officers are employees of the Municipality and therefore must also abide by the Municipality's Employee Code of Conduct and Ethics Policy.

7.4. 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.

7.5. 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.).

7.6. 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.

7.7. Hearing Officers must also abide by the terms of any agreement governing the employment relationship between the Hearing Officer and the Municipality.

7.8. No Member of Council shall advocate for any person or participate in any way in a screening or hearing review.

## **8. Conduct of Screening Officers and Hearing Officers**

8.1. 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, Municipal bylaws and APS 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 Municipality and by seeking guidance from their colleagues and the Municipality, as necessary;
- (i) remain up to date on changes in the law, Municipal bylaws, policies and procedures relevant to their function;
- (j) act with integrity, as they are subject to ongoing public scrutiny; 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 APS;
- (k) 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 APS and their appointment;
- (l) convey their decisions in plain language, including their decisions and the reasons therefore where such are required;
- (m) 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;
- (n) In discharging their duties, 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, and without limiting the foregoing, comply in all respects with the Ontario Human Rights Code;
- (o) refrain from openly and publicly criticizing the administration of APS or the conduct of others, including Municipal staff or Members of Council. Any criticisms, suggestions or concerns related to APS shall be communicated through appropriate channels to the CAO;
- (p) deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services; and
- (q) not knowingly exercise a power or function for which they have not been trained or designated.

## **9. Preventing Conflicts of Interest**

- 9.1. 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.
- 9.2. The need for identification, disclosure and withdrawal from a Power of Decision or administrative role in relation to APS applies to any real, potential or perceived conflict of interest.

## **10. Disclosure of Conflicts of Interest**

- 10.1. Hearing Officers, Screening Officers or Municipal staff involved in the administration of APS shall notify the CAO of any conflict of interest, real, potential or perceived, that they may have in relation to a matter immediately once the conflict is known to them.

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

- 11.1. 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 Penalty Notice or Screening Decision that has not yet commenced, the CAO shall assign another Screening Officer or Hearing Officer to conduct the review to avoid actual, perceived or potential conflict of interest; or
- (b) in the case of a review of a Penalty Notice or Screening Decision that has commenced, adjourn the review and withdraw from the Power of Decision; and
- (c) The CAO shall cause the Screening Review or Hearing Review to be recommenced and rescheduled with another Screening Officer or Hearing Officer to handle the matter that is subject to the conflict of interest.