



## The Corporation of the Town of Tecumseh

### Policy Manual

<b>Policy Number:</b>	<b>131.a</b>
<b>Effective Date:</b>	Click here to enter a date.
<b>Supersedes:</b>	N/A
<b>Approval:</b>	Click or tap here to enter text.
<b>Subject:</b>	<b>Draft Policy - AMPS Conflict of Interest</b>

#### 1. Purpose

- 1.1 To provide standardized guidelines to define what constitutes as a conflict of interest in relation to the administration of the Administrative Monetary Penalty System (AMPS) Program to prevent such conflicts of interest and to redress such conflicts should they occur.
- 1.2 Ontario Regulation 333/07 pursuant to the Municipal Act, 2001 requires a municipality establishing an Administrative Monetary Penalty System (AMPS) 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, contain provisions to prevent such conflicts and to redress such conflicts should they occur.

#### 2. Policy Statement

The Town of Tecumseh is committed to ensuring AMPS is operated in a fair and impartial manner and that members of Council, Town employees, Screening Officers and Hearing Officers conduct themselves with personal integrity, dignity and diligence in the performance of their duties, free of bias and/or conflicts of interest.

### 3. Scope

- 3.1 This Policy applies to the persons appointed by the Town to perform the role of Screening Officers and Hearing Officers; and to Members of Council and Town employees or their designates involved in the administration of an AMPS for the Corporation of the Town of Tecumseh.
- 3.2 For members of Council, this Policy should be read and applied within the context of provincial legislation (Municipal Conflict of Interest Act) including the Code of Conduct for Members of Council and its related policies, procedures and guidelines.
- 3.3 For Town employees involved in the administration of AMPS, the Employee Code of Conduct, and any successor policy, shall apply in regard to the activities of an employee in the administration of AMPS.
- 3.4 For appointed Screening Officers, if the Screening Officer is an employee, the Employee Code of Conduct, and any successor policy, shall apply in regard to the activities of the Screening Officer in the administration of AMPS. For an outside party, the provisions of any agreement governing the retainer between the Town and the Screening Officer shall apply in regard to the activities of the Screening Officer. In the event of a conflict between this Policy and the agreement, this Policy shall supersede.
- 3.5 For appointed Hearing Officers, the provisions of any agreement governing the retainer between the Town and the Hearing Officer shall apply in regard to the activities of the Screening Officer. In the event of a conflict between this Policy and the agreement, this Policy shall supersede.

### 4. Definitions

- 4.1 For the purposes of this policy, the following definitions are defined in accordance with the Town's Administrative Monetary Penalties By-Law:
  - 4.0.1 **AMPS:** Administrative Monetary Penalties System
  - 4.0.2 **Council:** means the Council of the Town of Tecumseh

- 4.0.3 **Director Legislative Services & Clerk:** means the Director Legislative Services & Clerk or their designate(s);
- 4.0.4 **Hearing Officer:** means the person (s) appointed by the Town to perform the functions of a Hearing Officer in accordance with the Town's Administrative Monetary Penalties By-Law as amended;
- 4.0.5 **Hearing Review:** means the process set out in Administrative Monetary Penalties By-Law;
- 4.0.6 **Penalty Notice:** means a notice given to a Person pursuant to the Administrative Monetary Penalties By-Law;
- 4.0.1 **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.
- 4.0.2 **Relative** includes any of the following Persons:
- a) **“Child”** means a child born within or outside marriage and includes an adopted child and person whom a parent has demonstrated a settled intention to treat as a child to their family;
  - b) **“Spouse”** means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;
  - c) Siblings and children of siblings;
  - d) Aunt, uncle, niece and nephew;
  - e) **“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;
- 4.0.3 **Screening Decision:** means a notice or report which contains the decision of a Screening Officer delivered in accordance with the Town's Administrative Monetary Penalties By-Law as amended;
- 4.0.4 **Screening Officer:** means the person (s) appointed by the Town to perform the functions of a Screening Officer pursuant to the Administrative Monetary Penalties By-Law;

4.0.5 **Screening Review:** means the process of reviewing an administrative penalty as set out in the Town's Administrative Monetary Penalties By-Law as amended;

4.0.6 **Town:** means The Corporation of the Town of Tecumseh.

## 5. Policy

### 5.1 Appointment of Screening Officers & Hearing Officers

5.1.1 The appointment of Screening Officers and Hearing Officers are through by-law for the authority to adjudicate reviews and appeals of administrative penalties in accordance with the AMPS by-law.

5.1.2 Screening Officers are individuals appointed to conduct Screening Reviews in the public interest.

5.1.3 Hearing Officers are individuals appointed to conduct Hearing Reviews in the public interest.

5.1.4 The following persons shall **not** be eligible for appointment as or to remain as a Screening Officer or Hearing Officer:

- a) a member of Council or relative of a member of Council;
- b) an individual indebted to the Town other than in respect of current real property taxes or pursuant to an outstanding agreement with the Town, where the individual is not in compliance; or
- c) is the subject of any outstanding fines or judgements as levied by any court of competent jurisdiction;
- d) is in tax arrears and or in the collections process with the Town;
- e) in the case of a Hearing Officer, an employee of the Town.

### 5.2 Conflict of Interest

5.2.1 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: such that they could influence a decision made in

relation to AMPS; that may affect the performance of their job duties in relation to AMPS; that conflicts, might conflict, or may be perceived to conflict with the interests of the proper administration of AMPS; or that may adversely affect the reputation of the Town as a public authority in relation to AMPS.

5.2.2 A conflict of interest can be direct or indirect and can include without limiting the following types of interests:

- a) directorships or other 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.

5.2.3 Screening Officers shall be impartial at all times. Screening Officers shall not review a Penalty Notice for or relating to a personal or business interest, acquaintance or relative.

5.2.4 Hearing Officers shall be impartial at all times. A Hearing Officer shall not review a Screening Decision for or relating to a personal or business interest, acquaintance or relative.

5.2.5 Hearing Officers, in conducting a Hearing Review, are bound by the Statutory Powers and Procedures Act, R.S.O. 1990 c. S. 22 as amended, as well as by general administrative common law principles of fairness such as judicial and prosecutorial independence, fairness, impartiality, competence, and integrity.

5.2.6 Every Town employee, Screening Officer and Hearing Officer involved in the administration of AMPS must disclose any obligation, commitment, relationship or interest that could directly or indirectly conflict with his or her duties to or interests in the administration of the AMPS to the Director Legislative Services & Clerk. Additionally, if a conflict is declared by a Screening Officer or Hearing Officer, they shall not represent any Person at a Screening Review or Hearing Review.

### **5.3 Conduct of Screening Officers & Hearing Officers**

5.3.1 All Screening Officers and Hearing Officers shall in the discharge of their duties:

- a) be independent, impartial and unbiased;
- b) 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;
- c) not represent any Person at a Screening or Hearing Review;
- d) not be influenced by partisan interests, public opinion or by fear of criticism;
- e) not use their title and position to promote their own interests or the interests of others;
- f) discharge their duties in accordance with the law, Town by-laws, and AMPS policies, procedures and guidelines;
- g) maintain and upgrade their knowledge and competence through their work, by participating in training and education courses and by seeking guidance as required;
- h) remain up to date in changes in the law, Town by-laws, policies and procedures relevant to their function;
- i) act with integrity, as they are subject to public scrutiny;
- j) respect and comply with the law and conduct themselves at all times in a manner that promotes public confidence and the integrity and impartiality of the AMPS;
- k) convey in plain language their decisions and reasons for such decision;
- 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 their appointment;
- m) safeguard the confidentiality of information the comes to them by virtue of their work and should not disclose that information except as required by law;

- n) treat those with whom they deal in a respectful and tolerant manner regardless of gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those persons;
- o) refrain from openly and publicly criticizing the administration of the AMPS or the conduct of others;
- p) deal with the tasks that come before them in a timely manner and should 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.

## **5.4 Preventing Conflict of Interest**

- 5.4.1 The keys to preventing conflicts of interest are: identification, disclosure, and withdrawal from the power of decision with respect to a Screening or Hearing Review.
- 5.4.2 The need for identification, disclosure and withdrawal from the power of decision with respect to a Screening or Hearing Review applies to any real, potential or perceived conflict of interest.
- 5.4.3 If a Screening Officer or Hearing Officer becomes aware of any real or perceived conflict of interest in regard to a review of a Penalty Notice or Screening Decision, the Screening Officer or Hearing Officer shall notify the Director Legislative Services & Clerk of the conflict of interest and:
  - a) in the case of a scheduled review of a Penalty Notice or Screening Decision that has not commenced, request 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 advise the Director Legislative Services & Clerk. The Town will reschedule the Screening Review or Hearing Review with another Screening Officer or Hearing Officer.

- 5.4.4 If all appointed Screening Officers or Hearing Officers have a conflict of interest with a matter, then the Director Legislative Services & Clerk shall appoint another Screening Officer or Hearing Officer to handle the matter that is the subject of the conflict of interest.
- 5.4.5 Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notice and are expected to pay the administrative penalty for a parking infraction in a timely manner.

## **5.5 Charges Under the Criminal Code of Canada or Other Statutes or Regulations**

- 5.5.1 Where a Screening Officer or Hearing Officer is charged with any offence under the Criminal Code of Canada or any other federal or provincial statute or regulation that is dealt with under the Criminal Code of Canada, such charge shall be disclosed to the Municipal Clerk within 5 business days.
- 5.5.2 Appropriate action will be taken by the Town, which may include suspension or termination of duties related to the AMPS and/or revocation of the appointment.

## **5.6 Accountability**

- 5.6.1 All members of Council shall comply with this Policy.
- 5.6.2 All Screening Officers, Hearing Officers and Town employees involved in AMPS administration shall comply with this policy.

## **6. Compliance**

The Director Legislative Services & Clerk ("Director") is responsible for administration and compliance of this policy. In cases of a possible policy violation, the Director, in consultation with the Town Solicitor or designates thereof may investigate and determine appropriate corrective action if applicable.



## **7. Policy Review**

This policy will be reviewed every new term of Council or as required by the Director Legislative Services & Clerk.

## **8. References and Related Documents**

Municipal Act, 2001  
Municipal Conflict of Interest Act  
Ontario Regulation 333/07 (Administrative Penalties)  
By-law Establishing System of Administrative Penalties  
By-law for Appointment of Screening & Hearing Officers  
Code of Conduct for Members of Council