

CP.1.1.13

Section: Administration

Subsection: General

Subject: Conflict of Interest and Code of Conduct in Relation to the Administration of the Administrative Monetary Penalty (“AMPs”) System

Approval Authority: 2022.06.08-CR-02

Effective Date: June 08, 2022

Policy Statement

The Town of Innisfil is committed to ensuring that the AMPs System operates in a fair and impartial manner, free of conflicts of interest.

Purpose

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.

Definitions

“**Administrative 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 Penalty By-Law**;

“**CDSB Leader**” means the Community Standards Leader, or anyone designated by the Community Standards Leader to perform his or her duties relating to **AMPs**;

“**Clerk**” means the Town Clerk, or anyone designated by the Clerk to perform his or her duties relating to **AMPs**;

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

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

“**Hearing Officer**” means any person appointed from time to time 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 Penalty By-Law**;

“**Hearing Review**” means the process related to review of a Screening Decision, as set out in section 5 of the Administrative Penalty By-Law;

“**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 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 4 of the **Administrative Penalty By-Law**;

“**Screening Officer**” means any person appointed from time to time 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 Penalty By-Law**;

“**Screening Review**” means the process related to the review of a **Penalty Notice**, as set out in section 6 of the **Administrative Penalty By-Law**;

“**Staff Code of Conduct**” means the 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 Innisfil

Responsibility

The Community Development Services Branch – Municipal Law (“**CDSB**”) shall be responsible for the development, approval, implementation, training, monitoring and compliance of and with the policy.

Application

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 (ie. 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.

Administration

6.1 Communication

This Policy will be posted on the **Town’s** website.

Staff will be advised of the new Policy via distribution to the Senior Leadership Team; and

This Policy shall form part of the orientation for all **Screening Officers, Hearing Officers** and **AMPs** enforcement and administration staff.

6.2 Appointment of Screening Officers and Hearing Officers

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.

6.3 Screening Officers

Screening Officers are employees of the **Town** and therefore must also abide by the **Staff Code of Conduct and Conflict of Interest corporate policy**.

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**.

6.4 Hearing Officers

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**.

6.5 Conduct of Screening Officers and Hearing Officers

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 **Clerk** or **CDSB Leader** 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 **Clerk** or the **CDSB Leader**;
- 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.

6.6 Conflict of Interest

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**.

6.6.1 Preventing Conflict of Interest

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.

6.6.2 Reporting Conflicts of Interest

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

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

Hearing Officers

If a **Hearing Officer** becomes aware of any real, potential, or perceived conflict of interest, the **Hearing Officer** shall notify the **CDSB Leader**.

6.7 Assignment of Alternate Screening Officer or Hearing Officer

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 **CDSB Leader** 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 **CDSB Leader** 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 **CDSB Leader** shall retain another **Screening Officer** or **Hearing Officer** to handle the matter that is the subject of the conflict of interest.

The **CDSB Leader** may consult with the **Town Solicitor**, or his/her designate, for further guidance in regard to this Policy.

6.8 Compliance

In cases of policy violation, the **Town** may investigate and determine appropriate corrective action.

Exceptions

None.

References

By-Law No. 053-22, being the Town's Administrative Monetary Penalty By-Law;
 By-Law No. 054-22, being the Town's Screening and Hearing Officer By-Law;
 CP.3.1.3 Code of Conduct for Members of Council and Local Boards;
 CP.11.1.4 Staff Code of Conduct and Conflict of Interest; and
Municipal Act, 2001

Revision History

Revision No.	Date	Summary of Changes	Approval Authority
V1	2022.06.08	Adoption	2022.06.08-CR-02