

CP.1.1.18

Section: Administration

Subsection: General

Subject: Undue Hardship in Relation to the Administration of the Administrative Monetary Penalty (“AMPs”) System

Approval Authority: 2022.06.08-CR-02

Effective Date: June 08, 2022

1. Policy Statement

The **Town** wishes to establish a Policy to assist **Screening Officers** and **Hearing Officers** in responding to requests by persons with a **Penalty Notice** for relief from paying all, or part, of an **Administrative Penalty**, including any **Administrative Fees**, on the basis that they would suffer undue hardship if required to pay the penalty or fee.

2. Purpose

Ontario Regulation 333/07 made under the *Municipal Act, 2001* requires a municipality establishing an **AMPs** system to have procedures that permit persons to be excused from paying all or part of the **Administrative Penalty**, including any **Administrative Fees**, if requiring them to do so would cause undue hardship.

The **Administrative Penalty By-Law** provides discretion to **Screening Officers** and **Hearing Officers** to cancel, reduce or extend time for payment of **Administrative Penalties** and **Administrative Fees** where the **Screening Officer** or **Hearing Officer** determines it is necessary in order to reduce undue hardship. This Policy is intended to provide guidelines to **Screening Officers** and **Hearing Officers** in exercising their discretion in accordance with the **Administrative Penalty By-Law**. It is not intended to provide criteria for establishing undue hardship in respect of other **Town** programs or services.

3. Definitions

“**Administrative Fee**” means any fee specified for **AMPs** in the **Town’s Fees and Charges By-Law**;

“**Administrative Penalty**” means an administrative penalty established by the **Administrative Penalty By-Law** for a contravention of a Designated By-Law, as defined therein;

“**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**;
- “**Financial Hardship**” means a significant financial difficulty or expense and focuses on the resources and circumstances of the **Person** owing an **Administrative Penalty** or **Administrative Fee**, in relation to the cost or difficulty of paying the **Administrative Penalty** or **Administrative Fee**;
- “**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 Decision**” means a notice which contains the decision of a **Hearing Officer**, as set out in section 5 of 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;
- “**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;
- “**Penalty Notice**” means a penalty notice as described in section 2.2 of the **Administrative Penalty By-Law**;
- “**Person**” includes an individual or corporation;
- “**Records Retention By-Law**” means the By-Law passed by the **Town** providing for the classification, retention and disposition of records, as amended from time to time, or any successor thereof;
- “**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**;
- “**Town**” means The Corporation of the Town of Innisfil; and
- “**Undue Hardship**” means financial hardship, or other extenuating circumstances based on compassionate grounds.

4. 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.

5. Application

This Policy applies to **Screening Officers** and **Hearing Officers** in the conduct of a **Screening Review** and a **Hearing Review**, respectively, pursuant to the **Administrative Penalty By-law**.

This Policy is not intended to:

- (a) Operate as an appeal mechanism to reverse or alter any decision of a **Screening Officer** or **Hearing Officer**; or
- (b) Replace other specific **Town** programs, policies/procedures, legislative processes, or legal processes available to the public to address public concerns with **AMPs** or with the outcome of a **Screening Review** or **Hearing Review**.

6. Administration

6.1 Communication

- 6.1.1 This Policy will be posted on the **Town**'s website.
- 6.1.2 Staff will be advised of the new Policy via distribution to the Senior Leadership Team.
- 6.1.3 This Policy shall form part of the orientation for all **Screening Officers**, **Hearing Officers** and **AMPs** enforcement and administration staff.
- 6.1.4 Without limiting 6.1.3, all current and new **Town** officials and Staff with the potential for interaction with the **AMPs** program shall receive training in relation to this Policy.

6.2 Process

In accordance with the **Administrative Penalty By-Law**, a **Screening Officer** or **Hearing Officer**:

- (a) May cancel, reduce, or extend the time for payment of an **Administrative Penalty** and/or any **Administrative Fee**, where the **Screening Officer** or **Hearing Officer** is satisfied, on a balance of probabilities, that the cancellation, reduction, or extension of time for payment is necessary to reduce **Undue Hardship**; and
- (b) Will consider and satisfy themselves at the **Screening Review** or **Hearing Review** as to the authenticity/credibility of any oral or documentary evidence provided, in respect of **Undue Hardship**, and will include an assessment of such evidence in their decision.

6.3 Documentation to support Financial Hardship

A **Person** who wishes to seek relief pursuant to the **Administrative Penalty By-Law** on the basis of **Financial Hardship** should bring documentation to support their claim to the **Screening Review** or **Hearing Review**. Examples of documents that may be considered in relation to **Financial Hardship** include, but are not limited to:

- (a) Old Age Security;

- (b) Canada Pension;
- (c) Guaranteed Income Supplement;
- (d) Disability Pension;
- (e) Ontario Student Assistance Program; or
- (f) Any other form of social assistance.

A **Screening Officer** or **Hearing Officer** may also consider the oral evidence provided by the **Person** in relation to **Financial Hardship**.

6.4 Records Retention

All information and documentation provided in support of **Financial Hardship** shall be treated in a confidential manner, in accordance with the ***Municipal Freedom of Information and Protection of Privacy Act***. Photocopies of the documentation may be required and attached to the **Screening Decision** and/or **Hearing Decision** record and will be retained according to the **Town's Records Retention By-Law**.

6.5 Compliance

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

7. Exceptions

None.

8. 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;
 By-Law No. 099-17, being the Town's Records Retention By-Law;
 By-Law No. 088-20, being the Town's Fees and Charges By-Law; and
Municipal Act, 2001

9. Revision History

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