

CORPORATE POLICY



Policy Title: **Preventing Political Interference in Relation to the Administration of the Administrative Monetary Penalty System (AMPS)**

Policy Category: **Administrative Monetary Penalties System Policy**

Policy No.: AMPS-001

Department: Community Services

Approval Date:

Revision Date:

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Attachments: n/a

Related Documents/Legislation:
Municipal Act, 2001
O. Reg. 333/07
Parking Administrative Penalty By-law
Screening and Hearing Officer By-law
Employee Code of Conduct and Ethics Policy
Code of Conduct for Members of Council
AMPS Program Policies and Procedures

Key Word(s): Political Interference
Administrative Monetary Penalty System
Parking

POLICY STATEMENT:

The City of Waterloo is committed to ensuring that the Administrative Monetary Penalty System (AMPS) system is conducted in a fair and independent manner, and preventing political interference in the administration of AMPS.

PURPOSE:

Ontario Regulation 333/07 made under the *Municipal Act, 2001* requires a municipality establishing an Administrative Monetary Penalty System (AMPS) to have a policy for the prevention of political interference in AMPS.

Mandatory Policy, *Municipal Act*: Yes

Policy Administration Team, Review Date: April 25, 2019

Corporate Management Team, Review Date: April 24, 2019

This Policy is intended to address this requirement, to define what constitutes political interference in relation to AMPS, and to ensure that the responsibilities of individuals involved in AMPS are conducted in accordance with the principles of fundamental justice, which include decision making and procedural independence, fairness, impartiality and integrity, without any political interference.

DEFINITIONS:

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

“AMPS” means Administrative Monetary Penalty System, established by the Parking Administrative Penalty By-law;

“City” means The Corporation of the City of Waterloo;

“Commissioner” means the Commissioner of Community Services of the City, or anyone designated by the Commissioner to perform his or her duties relating to AMPS;

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

“Council” means the Council of the City;

“Director of Municipal Enforcement Services” means the Director of Municipal Enforcement Services of the City, or anyone designated by the Director to perform his or her duties relating to AMPS;

“Employee Code of Conduct and Ethics Policy” means the policy adopted by the City to govern employee conduct, provide ethical standards and address conflict of interest, as amended from time to time, or any successor thereof;;

“Hearing Officer” means any person appointed by the City 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 Parking Administrative Penalty By-law;

“Hearing Review” means the process related to review of a screening decision, as set out in section 6.0 of the Parking Administrative Penalty By-law;

“Parking Administrative Penalty By-law” means the by-law passed by the City to establish administrative penalties for parking, as amended from time to time, or any successor thereof;

“Penalty Notice” means a penalty notice as described in Section 4.0 of the Parking Administrative Penalty By-law;

“Person” includes an individual or a corporation;

“Power of Decision” means a power or right, conferred by or under this By-law and the Parking Administrative Penalty By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any person:

“Reprisal” means any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing, initiating or cooperating in an investigation into an alleged wrongdoing, and includes but is not limited to:

1. Disciplinary measures;
2. Demotion of the employee or individual;
3. Termination of the employee or individual;
4. Intimidation or harassment of the employee or individual;
5. Any measure that adversely affects the employment or working conditions of the employee or individual; and
6. Directing or counselling someone to commit a reprisal

“Screening and Hearing Officer By-law” means the by-law passed by the City 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 for parking, as amended from time to time, or any successor thereof;;

“Screening Review” means the process related to review of a Penalty Notice, as set out in Section 5.0 of the Parking Administrative Penalty By-law;

“Screening Officer” means any person appointed by the City 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 Parking Administrative Penalty By-law;

SCOPE:

This Policy applies to all members of Council, to Hearing Officers and Screening Officers, to City employees involved in the enforcement and administration of AMPS, and to all other City employees in relation to their interaction with AMPS and members of Council.

The following shall apply in addition to this Policy:

- a) For City employees involved in the administration of the AMPS program: the Employee Code of Conduct and Ethics Policy, shall also apply in regard to the activities of an employee in the administration of the AMPS program.

- b) For Hearing Officers: the provisions of any agreement governing the retainer between the City 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.
- c) For members of Council: the Council Code of Conduct shall also apply in regard to the activities of members of Council. In the event of a conflict between the provisions of this Policy and the provisions of the Council Code of Conduct, in relation to AMPS, this Policy shall supersede.

This Policy shall apply in addition to all applicable law (i.e. Municipal Conflict of Interest Act, etc.). A breach of applicable law shall be deemed to be a breach of this Policy.

POLICY COMMUNICATION:

- (a) This Policy will be posted on the City's website and intranet.
- (b) Staff will be advised of the new Policy via distribution to the Operational Leadership Team and Corporate Management Team;
- (c) All members of Council shall be provided with a copy of this Policy and the Policy shall form part of the Council Orientation package;
- (d) This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and City staff involved in the enforcement and administration of AMPS; and
- (e) Without limiting (e), all current and new City officials and staff, with the potential for interaction with the AMPS program, shall receive training in relation to this Policy

POLICY:

1.1 Principles of Preventing Political Interference

- (a) No Person shall attempt, directly or indirectly, to communicate with any City employee or other person performing duties related to the administration of AMPS for the purpose of influencing or interfering, financially, politically or otherwise, with the administration of AMPS or with any particular Penalty Notice;
- (b) No Person shall attempt, directly or indirectly, to communicate with a Screening Officer or Hearing Officer for the purpose of influencing or interfering, financially, politically or otherwise, the Screening Officer or

Hearing Officer respecting a Penalty Notice and/or respecting a Power of Decision in a proceeding that is or will be pending before a Screening Officer or Hearing Officer, except:

1. A Person who is entitled to be heard in the proceeding or the Person's lawyer, licensed paralegal or authorized representative; and
2. Only by that Person or the Person's lawyer, licensed paralegal or authorized representative during the hearing of the proceeding in which the issues arises.

This paragraph shall not prohibit the giving of receiving of legal advice.

In addition to this Policy, the AMPS By-law sets out a prohibition on attempting to influence a Screening Officer or Hearing Officer and creates an offence for any contravention of the provisions of the By-law. Such penalty is in addition to any action taken pursuant to this Policy.

- (c) All individuals involved with the enforcement and administrative functions of AMPS shall carry out such duties in a manner which upholds the integrity of the administration of justice

1.2 Accountability

- (a) A Screening Officer or Hearing Officer, City employee or any other individual performing duties related to AMPS shall report any attempt at influence or interference, financial, political or otherwise, by any Person, to the Director of Municipal Enforcement Services as soon as possible. No action shall be taken against the Screening Officer, Hearing Officer, employee or other person(s) for making any such report in good faith;
- (b) Where any employee, Screening Officer, Hearing Officer or other person performing duties related to AMPS, is contacted by a member of Council or City official with respect to the administration of AMPS or a specific Penalty Notice, he or she shall immediately disclose such contact to the Director of Municipal Enforcement Services in order to maintain the integrity of AMPS
- (c) Any interference with or attempt to interfere with AMPS by any Person may result in charges under the Criminal Code of Canada, as applicable, or any other applicable law, in addition to any disciplinary action; and
- (d) Any interference with AMPS or attempt to interfere with AMPS, by a member of Council, will be addressed pursuant to the Council Code of Conduct;

1.3 Reprisal

In addition to and without limiting 1.2(a), no person shall take any Reprisal against a City employee or other individual performing duties related to the administration of the AMPS because the employee or individual, in good faith:

1. Has sought information or advice about making a disclosure about wrongdoing contrary to this policy;
2. Has made a disclosure about wrongdoing contrary to this policy in good faith;
3. Has initiated or cooperated in an investigation or other process related to a disclosure of wrongdoing contrary to this policy;
4. Has appeared as a witness, given evidence or participated in any proceeding relating to the wrongdoing contrary to this policy, or is required to do so;
5. Has alleged or reported a Reprisal; or
6. Is suspected or any of the above actions

The identity of employees or other individuals performing duties related to the administration of AMPS involved in an investigation, including the identity of an individual alleging political influence contrary to this policy, will be protected to the fullest extent possible.

If an employee believes that he or she has suffered Reprisal, this should be reported immediately to the Director of Municipal Enforcement Services, or where appropriate, to the Commissioner.

COMPLIANCE

1.4 Policy Violation

In cases of Policy violation, the City may investigate and determine appropriate corrective action.