


Undue Hardship in Relation to the Administration of the Administrative Monetary Penalty System (AMPS)

Revision Date:	N/A	Supersedes:	N/A
Effective:	May 8, 2024	AP Owner (Dept/Div):	Commissioner, Corporate Services
Applicable to:	Screening and Hearing Officers	Authority:	CAO 

1.0 Overview

Ontario Regulation 333/07 made under the *Municipal Act, 2001*, S.O. 2001, c. 25 requires a municipality establishing an Administrative Monetary Penalty System (AMPS) 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 Monetary Penalty System 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 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 Monetary Penalty System By-law. It is not intended to provide criteria for establishing Undue Hardship in respect of other Town programs or services.

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 Administrative Penalty or Administrative Fee.

2.0 Scope

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 Monetary Penalty System By-law.

3.0 Definitions

“Administrative Fee” means any fee specified in the Administrative Monetary Penalty System By-law;

“Administrative Monetary Penalty System By-law” means the by-law passed by the Town to establish Administrative Penalties as amended from time to time, or any successor thereof;

“Administrative Penalty” means an Administrative Penalty imposed for contravention of a designated by-law, in accordance with the Administrative Monetary Penalty System By-law;

“Commissioner” means the Commissioner, Corporate Services, or anyone designated by the Commissioner, Corporate Services 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 difficult of paying the Administrative Penalty or Administrative Fee;

“Hearing Decision” means a notice which contains the decision of a Hearing Officer, as set out in Section 6.15 of the Administrative Monetary Penalty System By-law;

“Hearing Officer” means any Person who is appointed by the Town 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 Monetary Penalty System By-law;

“Hearing Review” means the process related to review of a Screening Decision, as set out in Section 6.0 of the Administrative Monetary Penalty System 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 4.0 of the Administrative Monetary Penalty System By-law;

“Person” includes an individual or a corporation;

“Records Retention Schedule” means the Town's Records Retention Schedule providing for the classification retention and disposition of records in the Town, 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 5.8 of the Administrative Monetary Penalty System By-law;

“Screening Officer” means any Person appointed by the Town 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 Monetary Penalty System By-law;

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

“Town” means The Corporation of the Town of Whitchurch-Stouffville;

“Undue Hardship” means Financial Hardship, or other extenuating circumstances based on compassionate grounds.

4.0 Policy

4.1 Process

In accordance with the Administrative Monetary Penalty System 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.

4.2 Documentation to Support Financial Hardship

A Person who wishes to seek relief pursuant to the Administrative Monetary Penalty System By-law based on 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 pension;

- (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.

4.3 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 Schedule.

4.4 Accountability

The Commissioner is responsible for the administration of this policy and has the authority to amend the policy from time to time to ensure the administration of the AMPS program.

5.0 Compliance

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

6.0 References

- Administrative Monetary Penalty System By-law
- *Municipal Act, 2001*, S.O. 2001, c.25
- *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56
- O. Reg. 333/07
- Screening and Hearing Officer By-law

Available in alternative format upon request.