

<b>POLICY TITLE</b>	Preventing Political Interference in Relation to the Administration of the Administrative Penalty System (APS)
<b>CATEGORY</b>	Administration
<b>POLICY NUMBER</b>	ADM 057
<b>DEPARTMENT</b>	Corporate Services
<b>POLICY AUTHOR</b>	City Clerk
<b>POLICY TYPE</b>	Administrative Policy
<b>APPROVED BY</b>	Council
<b>EFFECTIVE DATE</b>	07/18/2023
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## **POLICY STATEMENT**

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

## **PURPOSE**

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

This Policy is intended to address this requirement, to define what constitutes political interference in relation to APS, and to ensure that the responsibilities of individuals involved in APS 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 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 City to establish administrative penalties for various by-laws, as amended from time to time, or any successor thereof;

“APS” means Administrative Penalty System, established by the Administrative Penalty By-law;

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

“Clerk” means the City Clerk, or anyone designated by the City Clerk to perform their duties relating to APS;

“Council Code of Conduct” means the Code of Conduct for Members of Council, established by Council 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;

“Employee Code of Conduct” 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 Administrative Penalty By-law;

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

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

“Person” includes an individual, corporation, a partnership, an association, or an authorized representative thereof;

“Power of Decision” means a power or right, conferred by or under the 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 and other by-laws, 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 the 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 Administrative Penalty By-law.

## **AUTHORITY**

Ontario Regulations 333/07 requires a municipality to develop standards relating to the administration of a parking Administrative Penalty System.

## **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 APS, and to all other City employees in relation to their interaction with APS.

The following shall apply in addition to this Policy:

- a) For City employees involved in the administration of the APS program: the Employee Code of Conduct, shall also apply in regard to the activities of an employee in the administration of the APS 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 APS, 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**

### **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 APS for the purpose of influencing or interfering, financially, politically or

otherwise, with the administration of the APS 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:
- i. A Person who is entitled to be heard in the proceeding or the Person's lawyer, licensed paralegal, or authorized representative; and
  - ii. Only by that Person or the Person's lawyer, licensed paralegal, or authorized representative during the hearing of the proceeding in which the issues arise.

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

In addition to this Policy, the APS 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 APS 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 APS shall report any attempt at influence or interference, financial, political, or otherwise, by any Person, to the City Clerk 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 APS, is contacted by a member of Council or City official with respect to the administration of APS or a specific Penalty Notice, they shall immediately disclose such contact to the City Clerk in order to maintain the integrity of APS.
- (c) Any interference with APS or attempt to interfere with APS, 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 APS 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 of any of the above actions

The identity of employees or other individuals performing duties related to the administration of APS 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 they have suffered reprisal, this should be reported immediately to the City Clerk or where appropriate, to the City Manager.

## **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; and
- (c) This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and AMPS enforcement and administration staff

## **RELATED PROCEDURES**

## **RELATED DOCUMENTS/LEGISLATION**

Municipal Act, 2001

Ontario Regulation 333/07

Administrative Penalty By-law

Screening and Hearing Officer By-law



Employee Code of Conduct

Code of Conduct for Members of Council

APS Program Policies and Procedures