

THE CORPORATION OF THE CITY OF VAUGHAN

CORPORATE POLICY

POLICY TITLE: ADMINISTRATIVE PENALTY SYSTEM (APS) CONFLICT OF INTEREST & CODE OF CONDUCT FOR SCREENING AND HEARING OFFICERS

POLICY NO.: 05.C.01

Section:	By-Law & Compliance		
Effective Date:	Click or tap to enter a date.	Date of Last Review:	December 6, 2024
Approval Authority: Council	Policy Owner: DCM, Community Services DCM, Strategic Initiatives		

POLICY STATEMENT
<p>The City of Vaughan utilizes the Administrative Penalties System (“APS”) system to resolve municipal by-law contraventions. APS is administered by the municipality and supplements the traditional Provincial Offences system, providing a faster, more cost effective, and citizen-focused option for dispute resolution.</p> <p>To be successful in maintaining the principles of natural justice, integrity, impartiality, and prosecutorial independence of APS, Screenings and Hearings Officers must adhere to professional standards of conduct and take all reasonable measures to prevent and address any real or perceived conflict of interest as related to their duties.</p>
PURPOSE
<p>Ontario Regulation 333/07 made under the <i>Municipal Act</i>, 2001 S.O. 2001, c. 25, requires a municipality establishing an Administrative Penalty System to have a policy addressing conflicts of interest.</p> <p>The purpose of this policy is to:</p> <ol style="list-style-type: none"> 1. Identify what constitutes a conflict of interest within the APS program, establish measures to prevent such conflicts, and address any conflicts that arise. 2. Establish conflict of interest guidelines to ensure that APS program duties are carried out in line with core principles of justice, including judicial and prosecutorial independence, fairness, impartiality, competence, and integrity.

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3. Establish a code of conduct for the APS that clearly defines expectations, specifies prohibited activities, and provides guidance on managing conflict situations. This will support the effective implementation of the conflict of interest provisions.

SCOPE

This policy applies to all Screening Officers, Hearing Officers, and all City employees involved in the administration of the APS program.

The following shall apply in addition to this policy:

1. For City employees involved in administering the APS program, the Employee Code of Conduct also applies to their activities. If there is a conflict between this Policy and the Employee Code of Conduct regarding APS, this policy will take precedence.
2. For Hearing Officers, the terms of any agreement governing their retainer with the City will also apply to their activities. If there is a conflict between this policy and the agreement, the provisions of the agreement will take precedence.
3. This policy shall apply in addition to all applicable law, (*Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, 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.

LEGISLATIVE REQUIREMENTS

1. *Highway Traffic Act*, R.S.O. 1990 c H.8.
2. *Municipal Act*, 2001, S .O. 2001, c. 25, as amended, (the "Municipal Act").
3. Ontario Regulation 333/07: Administrative Penalties.
4. *Statutory Powers & Procedures Act*, R.S.O. 1990, c. S.22.

DEFINITIONS

1. **APS:** Administrative Penalty System.
2. **Administrative Penalty:** A penalty established under the *Municipal Act* or under the *Highway Traffic Act*.
3. **Appeal:** a screening review or hearing review of an Administrative Penalty.
4. **City:** Corporation of the City of Vaughan.

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5. **City Clerk:** The person appointed by Council as Clerk pursuant to Section 228 of the *Municipal Act*, or their designate.
6. **Contravener:** A person who has contravened any provision of a Designated By-law, or a Motor Vehicle Owner whose Motor Vehicle has been left parked, standing or stopped in contravention of the Parking By-law or Motor Vehicle Owner whose Motor Vehicle has been involved in a speeding contravention under Highway Traffic Act.
7. **Council:** The Council of the City.
8. **Delegated Power of Decision:** A power or right, conferred by a City By-law, to prescribe the legal rights, powers, privileges, duties and/or liabilities of any person or party.
9. **Director:** The Director of By-law & Compliance, Licensing & Permit Services of the City of Vaughan or their designate.
10. **Hearing Officer:** A person appointed by the City Clerk pursuant to the APs By-law.
11. **Hearing Review:** The process set out in the APs By-law for conducting the second stage of appeal by a Hearing Officer.
12. **Penalty Notice:** An Administrative Penalty issued for contravention of a Designated By-law
13. **Penalty Order:** An Administrative Penalty issued pursuant to the *Highway Traffic Act*, in relation to contraventions detected using Automated Speed Enforcement Systems.
14. **Person:** An individual or business, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof, to whom the context may apply according to law.
15. **Relative:** 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;

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- c. Child, including a stepchild and grandchild;
- d. Siblings and children of siblings and children of siblings and their spouses;
- e. Siblings of parents and their children (typically known as aunt, uncle, niece and nephew);
- f. In-laws, including parents, siblings, and children; or
- g. Any person who lives with the person on a permanent basis.

16. Screening Officer: A person appointed by the Director pursuant to the APS By-law.

17. Screening Review: The process set out in the APs By-law for conducting the first stage of appeal by a Screening Officer.

POLICY

1. APPOINTMENT OF SCREENING OFFICERS AND HEARING OFFICERS

- a. Appointment of Screening Officers and Hearing Officers shall be in accordance with the Administrative Penalties (“APs”) By-law, or its successor by-law, and the Hearing Officer Recruitment Policy (03.C.17). The following individuals are ineligible for appointment or continuation as a Screening Officer or Hearing Officer:
 - i) A member of Council;
 - ii) A Relative of a member of Council;
 - iii) An individual indebted to the City other than:
 - (a) In respect of current real property taxes; or
 - (b) In accordance with an agreement with the City, provided the individual adheres to its terms.
- b. A Hearing Officer cannot be an employee of the City of Vaughan.
- c. Hearings Officers cannot be involved in litigation or legal proceedings against the City.

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2. CONFLICT OF INTEREST

- a. A conflict of interest occurs when a Screening Officer, Hearing Officer, or employee involved in APS administration, or any of their relatives, has a direct or indirect personal or financial interest:
 - i) Such that they could influence a decision made in relation to APS;
 - ii) That may affect the performance of their job duties in relation to APS;
 - iii) That conflicts, might conflict, or could reasonably be perceived to conflict with the proper administration of APS; or
 - iv) That may adversely affect the reputation of the City as a public authority in relation to APS.
- b. A conflict of interest encompasses any pecuniary or non-pecuniary interest, whether actual, perceived, or potential, that could arise in relation to personal or financial matters, including but not limited to:
 - i) Employment opportunities;
 - ii) Interests in business enterprises or professional practices;
 - iii) Share ownership or beneficial interests in trusts;
 - iv) Professional or personal associations with a Person;
 - v) Professional associations or relationships with other organizations;
 - vi) Personal associations with other groups or organizations; or
 - vii) Family relationships, including Relatives.
- c. Every Screening Officer, Hearing Officer or City employee involved in the administration of APS, must disclose, in accordance with this Policy, any obligation, commitment, relationship or interest that poses a real, potential, or perceived conflict with their duties in relation to or interests in the administration of APS.

3. PREVENTING CONFLICT OF INTEREST

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- a. The key measures to preventing conflicts of interest are identification, disclosure, and withdrawal from the Delegated Power of Decision with respect to the appeal process set out in the APs By-law
- b. The need for identification, disclosure and withdrawal from a Delegated Power of Decision or administrative role in relation to the APS applies to any real, potential, or perceived conflict of interest.
- c. Screening Officers, Hearing Officers and all persons involved in the administration of APS shall avoid activities or circumstances that create conflicts, whether real, potential or reasonably perceived, between their personal interests and their responsibilities in relation to APS, including situations where their personal interests or a reasonable person's perception that their personal interests could influence any decisions they make on behalf of the City. Any obligation, interest, or participation, which would or could interfere with the fair and impartial administration of APS or the exercise of judgment in relation to APS, constitutes a conflict of interest.

4. REPORTING CONFLICT OF INTEREST

- a. Screening and Hearing Officers shall not adjudicate matters where a real, potential, or perceived conflict of interest may exist.
- b. If a Screening Officer becomes aware of any real, perceived or potential conflict of interest in regard to a review of a Penalty Notice or Penalty Order they shall notify the Director of the conflict of interest.
- c. If a Hearing Officer becomes aware of any real, perceived or potential conflict of interest in regard to a review of a Penalty Notice, Penalty Order or any other contravention of a Designated By-law they shall notify the City Clerk of the conflict of interest.
- d. Any Contravener or their Authorized Agent may make a complaint regarding a real or perceived Conflict of Interest pertaining to the administration of APS by following the process outlined in the Administrative Penalties Public Complaints Policy (05.C.04).

5. ASSIGNMENT OF ALTERNATE SCREENING OFFICER OR HEARING OFFICER

- a) Where a real, potential, or perceived conflict of interest is reported by a Screening or Hearing Officer, as set out in this policy:

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- i) In the case of an Appeal that has not yet started:
 - (a) The Director shall assign another Screening Officer; or
 - (b) The City Clerk shall assign another Hearing Officer.
- ii) In the case of an Appeal that has started:
 - (a) The Screening or Hearing Officer shall adjourn the Appeal.
 - (b) The Director shall cause the Screening Review to be rescheduled with another Screening Officer.
 - (c) The City Clerk shall cause the Hearing to be rescheduled with another Hearing Officer.
- b) If all City-employed Screening Officers have a conflict, the Penalty Notice or Penalty Order is automatically confirmed at the first stage of the Appeal process, and the Appeal moves to the second stage for a Hearing Officer to review.
- c) If a conflict exists with all Hearing Officers appointed by the City Clerk, the City Clerk shall retain another Hearing Officer to handle the matter.

6. CONDUCT

- a) All Screening and Hearing Officers shall:
 - i) Both be and appear to be independent, impartial, and unbiased while exercising a Delegated Power of Decision or otherwise acting in their official capacity as Screening or Hearing Officer;
 - ii) 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;
 - iii) Not represent any Contravener at a Screening Review or Hearing Review;
 - iv) Not dispute their own Penalty Notice or Penalty Order before a Screening Officer or Hearing Officer with whom they are acquainted. They should not disclose their title and position as a co-Screening Officer or co-Hearing Officer during the Hearing and are expected to pay any adjudicated Penalty Notice promptly.

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- v) Not conduct a screening review or hearing review of a Penalty Notice or Penalty Order for a personal or business acquaintance or Relative;
- vi) Not be influenced by partisan interests or public opinion.
- vii) Not use their title and position to promote their own interests or the interests of others;
- viii) Discharge their duties in accordance with the law, City by-laws and APS policies, procedures, and guidelines in effect from time to time;
- ix) Maintain and upgrade their knowledge and competence through their work, by participating in training and education courses as required by the City, including training relating to implicit bias, and by seeking guidance from their colleagues and the City, as necessary;
- x) Remain up to date on changes in relevant laws, City by-laws, policies and procedures relevant to their function;
- xi) Act with integrity, as they are subject to ongoing public scrutiny;
- xii) 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 APS;
- xiii) 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 APS and with their appointment;
- xiv) Convey their decisions and related reasons in plain language;
- xv) 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;
- xvi) 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;

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- xvii) Refrain from openly and publicly criticizing the administration of APS or the conduct of others, including City employees or members of Council. Screening Officers and Hearing Officers shall acknowledge that only the City Clerk or Director may speak publicly on behalf of the City's APS program. Any criticisms, suggestions or concerns related to APS shall be communicated through appropriate channels to the Clerk or the Director;
 - xviii) Deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services;
 - xix) Not knowingly exercise a power or function for which they have not been trained or designated; and
 - xx) Shall not discuss the matters that come before them with any Issuing Officer, City employee, elected official, other than their direct supervisor.
- b) Screening Officers are employees of the City of Vaughan and therefore must also abide by the City's Employee Code of Conduct.
 - c) Hearing Officers, in conducting a Hearing Review, are bound by and must comply with the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22.
 - d) Screening and Hearing Officers must comply with general administrative common law principles relating to procedural fairness and natural justice (e.g., impartial and unbiased decision making, etc.).
 - e) Hearing Officers must also abide by the terms of any agreement governing the retainer between the Hearing Officer and the City.
 - f) If a Screening Officer is charged with an offence under the Criminal Code of Canada or any other federal statute or regulation covered by the Criminal Code, they must inform the Director within five business days of the charge.
 - g) If a Hearing Officer is charged with an offence under the Criminal Code of Canada or any other federal statute or regulation covered by the Criminal Code, they must inform the City Clerk within five business days of the charge.
 - h) If a Screening or Hearing Officer is charged with an offence under other federal or provincial statutes or regulations and continuing their duties could erode public confidence in the APS program, the charge must be disclosed as outlined in subsections 6 (f) and 6 (g) as applicable.

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7. INFLUENCE

- a) No Person shall attempt, directly or indirectly, to communicate for the purpose of influencing or interfering, financially, politically or otherwise, with employees or other persons performing duties related to the administration of APS.
- b) No Person shall attempt, directly or indirectly, to influence or interfere, financially, politically, or otherwise, with a Screening or Hearing Officer’s decision on an Administrative Penalty matter or a Delegated Power of Decision in a pending or future proceeding, except for those entitled to be heard in a Screening or Hearing Review.

8. IMPLEMENTATION

- a) This policy shall form part of the orientation for all current and new Screening Officers and Hearing Officers and APS administration staff.

9. POLICY VIOLATION

- a) The Director or City Clerk, as required, are responsible for determining if an actual or perceived conflict of interest exists or if public confidence in the APS program has been compromised. If so, the Screening or Hearing Officer may be removed from their duties until the matter is resolved.
- b) Where this Policy has been violated, the Director or City Clerk, may investigate and determine appropriate corrective action.

ADMINISTRATION

Administered by the Office of the City Clerk.

Review Schedule:	SELECT <small>If other, specify here</small>	Next Review Date:	<small>Click or tap to enter a date.</small>
Related Policy(ies):	03.C.17 – Hearing Officer Recruitment, 05.C.04 – Administrative Penalty System Public Complaints		
Related By-Law(s):	240-2024 – Administrative Penalties (“APs”) By-law		
Procedural Document:			

Revision History

Date:	Description:
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