

Administrative Penalty System - Conflict of Interest Policy

Approved by: City Council

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Effective date:

Revision Approved by: N/A

Revision / Review date: N/A

Policy statement

This policy addresses conflict of interest provisions in relation to the administration of the Administrative Penalty System (APS) program for parking and camera-based automated enforcement and red-light camera contraventions. The City of Ottawa recognizes that City employees and those acting in adjudicative roles are expected to conduct themselves with impartiality, integrity, and independence in the performance of their duties. This policy addresses real or perceived conflicts of interest in the ongoing operation of the City's Administrative Penalty System program.

Purpose

Ontario Regulation 333/07 pursuant to the *Municipal Act, 2001* and Ontario Regulation 355/22 pursuant to the *Highway Traffic Act, 1990* prescribe the implementation of APS and require the City to define what constitutes a conflict of interest in relation to the APS program to prevent such conflicts of interest, and to redress such conflicts should they occur.

This policy is to establish conflict of interest guidelines to ensure that APS program responsibilities are conducted in accordance with fundamental principles of justice, which include adjudicative independence, fairness, impartiality, competence, and integrity.

Application

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

For City staff engaged 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.

For Members of Council, provisions in the Code of Conduct for Members of Council and prevailing Provincial legislation (i.e. *Municipal Conflict of Interest Act*), and any successor policies, shall also apply in the administration of APS.

Policy requirements

Conflict of Interest

A conflict of interest arises where a Screening Officer, Hearing Officer or staff person involved in the administration of the APS program has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the APS program. A conflict of interest could arise in relation to personal or business matters including:

- directorships or other employment;
- interests in business enterprises or professional practices;
- share ownership or beneficial interests in trusts;
- existing professional or personal associations with a person;
- professional associations or relationships with other organizations; and
- personal associations with other groups or organizations, or family relationships including relatives.

Screening Officers must be and appear to be impartial at all times. It would be inappropriate for a Screening Officer to review a Penalty Notice for a personal or business acquaintance or relative. A conflict of interest includes an actual conflict and a potential conflict.

Hearing Officers have obligations to conduct Hearing reviews in an impartial manner. Hearing Officers, in conducting a Hearing Review, are bound by the *Statutory Powers and Procedures Act*, as well as bound by general administrative common law principles (i.e., procedural fairness, natural justice, impartial and unbiased decision making, etc.). Hearing Officers must be and appear to be impartial at all times. It would be inappropriate for a Hearing Officer to review a Screening Review Decision for a personal or business acquaintance or relative. A conflict of interest includes an actual conflict and a potential conflict.

Every Screening Officer, Hearing Officer or other City staff person involved in the administration of APS, must disclose any obligation, commitment, relationship, or interest that could conflict or may be perceived to conflict with his or her duties to or interests in the administration of the APS program. A Screening Officer or Hearing Officer shall not represent any person at a Screening Review or Hearing Review.

Procedures may be defined by the Director, ServiceOttawa to address specific implementation of this policy.

Preventing Conflict of Interest:

The keys to preventing conflicts of interest are disclosure and withdrawal from the power of decision in regard to a Screening Review or Hearing Review. The need for disclosure and withdrawal from a power of decision applies to any real or perceived conflict of interest.

If a Screening Officer or Hearing Officer becomes aware of any real or perceived conflict of interest in regard to a review of an administrative penalty or Screening Decision, as the case may be, the Screening Officer or Hearing Officer shall notify the Director, ServiceOttawa, or their designate(s), of the conflict of interest and

- in the case of a scheduled review of an administrative penalty or Screening Decision that has not yet commenced, request another Screening Officer or Hearing Officer to conduct the review, or
- in the case of a review of an administrative penalty or Screening Decision that has commenced, adjourn the review and withdraw from the power of decision, and advise the Director, ServiceOttawa, or their designate. The City will reschedule the Screening review or Hearing Review with another Screening Officer or Hearing Officer, as the case may be.

If all Screening Officers and/or Hearing Officers have a conflict of interest with a matter, then the Director, ServiceOttawa shall retain another Screening Officer or Hearing Officer to handle the matter that is the subject of the conflict of interest.

Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notices and are expected to pay the administrative penalty for any infraction applicable under the Administrative Penalty System Parking By-Law #XXXXXX and the Administrative Penalty System Camera-Based By-Law #XXXXXX in a timely manner.

If there are further questions or if staff are looking for further guidance in regard to this policy, the Director, ServiceOttawa, or their designate may be contacted.

Addressing Conflicts of Interest if they Occur:

If someone suspects that a Screening Officer or Hearing Officer conducted a Screening Review or Hearing review where there was a conflict of interest, the person shall advise the Director, ServiceOttawa and an investigation may be conducted in accordance with this policy and the Public Complaints Procedure for the Administration of the APS Program.

In the event that a conflict of interest was not declared, the Director ServiceOttawa may set aside the decision issued and reschedule the Screening Review or Hearing Review with another Screening or Hearing Officer.

Any apparent conflict of interest by a Screening Officer, shall be reported to the Director, ServiceOttawa by the responsible City official, for review and redress which may include any recommendation for appropriate disciplinary action, up to and including revocation of employment.

Any apparent conflict of interest by a Hearing Officer, shall be reported to the Director, ServiceOttawa, for review and redress which may include any recommendation for appropriate disciplinary action, up to and including revocation of appointment by Council.

Responsibilities

All Screening Officers, Hearing Officers and City staff involved in the administration of the APS program are accountable for implementing and abiding by this policy.

Accountability for interpretation of this policy in relation to a real or perceived conflict of interest shall be determined by the Director, ServiceOttawa.

Monitoring/Contraventions

The Director, ServiceOttawa shall monitor to ensure the policy is being applied consistently and to assist in ensuring investigations are completed when required.

Any concerns in relation to a real or perceived conflict of interest shall be referred to the Director, ServiceOttawa.

Failure of Screening Officers or Hearing Officers to comply with this policy can result in appropriate disciplinary action, up to and including revocation of appointment.

References

City of Ottawa Administrative Penalties System Parking By-law XXXXX

City of Ottawa Administrative Penalties System Camera-Based Parking By-law XXXXX

City of Ottawa Administrative Penalties System Appointments By-law XXXXX

Employee Code of Conduct

Legislative and administrative authorities

Municipal Act, 2001

Ontario Regulation 333/07 (Administrative Penalties), pursuant to the *Municipal Act*

Ontario Regulation 355/22 (Administrative Penalties for Contraventions Detected Using Camera Systems), pursuant to the *Highway Traffic Act*

Recordkeeping requirements

As per the Records Management Policy, Official Business Records generated as a result of the execution of this policy must be declared as such in the appropriate SharePoint site, RMS (Records Management System) or approved business system.

Definitions

Administrative Penalty means a monetary penalty set out in the Administrative Penalties System Parking By-Law and the City of Ottawa Administrative Penalties System Camera-Based By-law for a contravention of a Designated By-Law or Designated Statute.

Screening Officer means any person designated from time to time in accordance with the City of Ottawa Administrative Penalties System Appointments By-Law to perform screening (first-stage) reviews of designated by-law or designated statute infractions.

Hearing Officer means any person designated from time to time in accordance with the City of Ottawa Administrative Penalties System Appointments By-Law to perform hearing (second-stage) reviews of designated by-law or designated statute infractions.

Director, ServiceOttawa means the Director, ServiceOttawa or their designate, or in the event of organizational changes, the director of the appropriately titled department assigned duties under the APS program.

Relative means any relative, including but not limited to, a spouse, child or parent.

Enquiries

For more information on this Policy, contact the Director, ServiceOttawa or their designate.