

# CORPORATE POLICY



Policy Title: **Undue Hardship in Relation to the Administration of the Administrative Monetary Penalty System (AMPS)**

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

Policy No.: AMPS-004

Department: Community Services

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Authors: Susan Smith, Legal Services  
Grant Curlew, Municipal Enforcement Services

Attachments: n/a

Related Documents/Legislation:  
*Municipal Act, 2001*  
O. Reg. 333/07  
*Municipal Freedom of Information and Protection of Privacy Act*  
Parking Administrative Penalty By-law  
General Administrative Penalty By-law  
Screening and Hearing Officer By-law  
AMPS Program Policies and Procedures

Key Word(s): Financial Hardship  
Undue Hardship  
Administrative Monetary Penalty System  
Parking

## **POLICY STATEMENT:**

This policy assists 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 penalty or fee.

## **PURPOSE:**

Ontario Regulation 333/07 made under the *Municipal Act, 2001* 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 General Administrative Penalty By-law and the Parking Administrative Penalty By-law provides discretion to Screening Officers and Hearing Officer to cancel, reduce or extend time for payment of Administrative Penalties and Administrative Fees where the 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 By-law. It is not intended to provide criteria for establishing undue hardship in respect of other City programs or services.

## **DEFINITIONS:**

“Administrative Fee” means any fee specified in the General Administrative Penalty By-law and the Parking Administrative Penalty By-law;

“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;

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

“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;

“General 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;

“Hearing Officer” means any person who is 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, General Administrative Penalty By-law, and the Parking Administrative Penalty By-law;

“Hearing Decision” means a notice which contains the decision of a Hearing Officer, as set out in Section 7.14 of the General Administrative Penalty By-law and Section 6.14 of the Parking Administrative Penalty By-law;

“Hearing Review” means the process related to review of a screening decision, as set out in Section 7.0 of the General Administrative Penalty By-law and Section 6.0 of the Parking Administrative Penalty 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;

“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 General Administrative Penalty By-law and Section 4.0 of the Parking Administrative Penalty By-law;

“Person” includes an individual or a corporation;

“Records Retention By-law” means the by-law passed by the City providing for the classification retention and disposition of records in the City of Waterloo, 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 6.0 of the General Administrative Penalty By-law and Section 5.0 of the Parking Administrative Penalty By-law;

“Screening Decision” means a notice which contains the decision of a Screening Officer, as set out in Section 6.8 of the General Administrative Penalty By-law and Section 5.8 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, the General Administrative Penalty By-law, and the Parking Administrative Penalty By-law; and

“Undue Hardship” means financial hardship, or other extenuating circumstances based on compassionate grounds

#### **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 General Administrative Penalty By-law and Parking Administrative Penalty By-law.

#### **POLICY COMMUNICATION:**

- (k) This Policy will be posted on the City’s website and intranet.
- (l) Employees will be advised of the new Policy via distribution to the Operational Leadership Team and Corporate Management Team; and
- (m) This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and AMPS enforcement and administration employees

## **POLICY:**

### 1.2 Process

In accordance with the General Administrative Penalty By-law and Parking Administrative Penalty 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.

### 1.3 Documentation to support Financial Hardship

A Person who wishes to seek relief pursuant to the Parking Administrative Penalty 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;
- (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.

### 1.4 Records Retention

All information and documentation provided supporting financial hardship shall be treated confidentially, 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 City's Records Retention By-Law.

## **COMPLIANCE**

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