



GEORGINA

Conflict of Interest and Code of Conduct in Relation to the Administrative Monetary Penalty System (AMPS)

Issued Date: November 22, 2023

Policy #LS-AMPS-003

1 PURPOSE STATEMENT

- 1.1 The Town of Georgina is committed to ensuring that the Administrative Monetary Penalty System (AMPS) operates in a fair and impartial manner, free of conflicts of interest.

2 POLICY OBJECTIVE

- 2.1 The purpose of the Policy is to provide a consistent and transparent framework for the selection and appointment of Screening Officers and Hearing Officers and to act as a guide for appointees. Ontario Regulation 333/07 (“the Regulation”) pursuant to the *Municipal Act, 2001* requires a municipality establishing an Administrative Monetary Penalty System (AMPS) for Designated By-laws to have a policy relating to conflicts of interest. In accordance with the Regulation, the Policy must define what constitutes a conflict of interest in relation to AMPs, contain provisions to prevent such conflicts and to address such conflicts should they occur.
- 2.2 This Policy addresses conflict of interest provisions in relation to the administration of AMPs. The Policy sets out requirements relating to Screening Officers, Hearing Officers and Town of Georgina staff in order to prevent actual, potential and perceived conflicts of interest, and to ensure that AMPs responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity.

3 APPLICATION/SCOPE

- 3.1 This Policy applies to all Screening Officers, Hearing Officers, and all Town of Georgina employees involved in the administration of the AMPs program.
- 3.2 The following shall apply in addition to this Policy:
 - 3.2.1 For Town of Georgina employees involved in the administration of the AMPs program: the Employee Code of Conduct, shall also apply in regard to the activities of an employee in the administration of the AMPs program. In the event of a conflict between the provisions of this Policy and the provisions of the Employee Code of Conduct, in relation to AMPs, this Policy shall supersede.
 - 3.2.2 For Hearing Officers: the provisions of any agreement governing the retainer between the Town of Georgina 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.

- 3.2.3 This Policy shall apply in addition to all applicable law (i.e., *Municipal Conflict of Interest Act*, 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.

4 DEFINITIONS

For the purposes of this Policy, the following terms are defined:

- 4.1 “AMPs” means the Administrative Monetary Penalty System, established pursuant to the Administrative Penalty By-law;
- 4.2 “Employee Code of Conduct” means the policy adopted by the Town to govern employee conduct, provide ethical standards and conflict of interest, as amended from time to time, or any successor thereof;
- 4.3 “Parent” means a person who has demonstrated a settled intention to treat a child as a member of her or his family, whether or not that person is the natural parent of the child;
- 4.4 “Policy for Appointment of Screening and Hearing Officers” means the policy adopted by the Town to govern the Appointment of Screening and Hearing Officers, as amended from time to time, or any successor thereof;
- 4.5 Power of Decision – means a power or right, conferred by or under this By-law and the Administrative Penalty By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any Person;
- 4.6 “Relative” includes any of the following persons:
- 4.6.1 spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
 - 4.6.2 Parent or legal guardian;
 - 4.6.3 child, including a step-child and grandchild;
 - 4.6.4 siblings and children of siblings;
 - 4.6.5 aunt, uncle, niece and nephew;
 - 4.6.6 in-laws, including mother, father, sister, brother, daughter and son; or
 - 4.6.7 any person who lives with the person on a permanent basis.

5 Conflict of Interest and Code of Conduct

- 5.1 Appointment of Screening Officers and Hearing Officers
- 5.1.1 The Screening and Hearing Officer By-law and Policy for Appointment of Screening and Hearing Officers, establishes the rules regarding the appointment of Screening Officers and Hearing Officers.

- 5.1.2 Screening and Hearing Officers shall be appointed and recruited in accordance with the Policy For Appointment of Screening and Hearing Officers.
- 5.2 The following persons shall not be eligible for appointment as or to remain as a Screening Officer or Hearing Officer:
 - 5.2.1 a member of Council;
 - 5.2.2 a Relative of a member of Council;
 - 5.2.3 an individual indebted to the Town of Georgina other than:
 - 5.2.3.1 in respect of current real property taxes; or
 - 5.2.3.2 pursuant to an agreement with the Town of Georgina, where the individual is in compliance with the terms thereof; and
 - 5.2.4 in the case of a Hearing Officer, an employee of the Town of Georgina.
- 5.3 Conflict of Interest
 - 5.3.1 A conflict of interest arises where a Screening Officer, Hearing Officer or Town of Georgina employee involved in the administration of AMPs, or any Relative of same, has a direct or indirect personal or financial interest:
 - 5.3.2 such that they could influence a decision made in relation to AMPs;
 - 5.3.3 that may affect the performance of their job duties in relation to AMPs;
 - 5.3.4 that conflicts, might conflict, or may be perceived to conflict with the interests of the proper administration of AMPs; or
 - 5.3.5 that may adversely affect the reputation of the Town of Georgina as a public authority in relation to AMPs.
- 5.4 A conflict of interest includes a pecuniary or non-pecuniary interest, actual, perceived or potential conflict, that could arise in relation to personal or financial matters, including but not limited to:
 - 5.4.1 directorships or employment;
 - 5.4.2 interests in business enterprises or professional practices;
 - 5.4.3 share ownership or beneficial interests in trusts;
 - 5.4.4 professional or personal associations with a person;
 - 5.4.5 professional associations or relationships with other organizations;
 - 5.4.6 personal associations with other groups or organizations; or
 - 5.4.7 family relationships, including relatives.

5.5 Screening Officers

5.5.1 Screening Officers are employees of the Town of Georgina and therefore must also abide by the Town of Georgina's Employee Code of Conduct.

5.5.2 Screening Officers must be and appear to be impartial at all times.

5.5.3 Screening Officers shall not review a Penalty Notice for a personal or business acquaintance or Relative.

5.6 Hearing Officers

Hearing Officers, in conducting a Hearing Review, are bound by and shall comply with the *Statutory Powers Procedures Act*, as well as general administrative common law principles (i.e. procedural fairness, natural justice, impartial and unbiased decision making, etc.).

5.6.1 Hearing Officers must be and appear to be impartial at all times. A Hearing Officer shall not review a Screening Decision for a personal or business acquaintance or Relative.

5.6.2 Hearing Officers must also abide by the terms of any agreement governing the retainer between the Hearing Officer and the Town of Georgina.

5.7 Conduct of Screening Officers and Hearing Officers

5.7.1 All Screening Officers and Hearing Officers shall:

5.7.1.1 Be and appear to be independent, impartial, and unbiased;

5.7.1.2 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;

5.7.1.3 Not represent any person at a Screening Review or Hearing Review;

5.7.1.4 Not dispute their own Penalty Notices and are expected to pay the Penalty Notice in a timely manner;

5.7.1.5 Not be influenced by partisan interests, public opinion, or by fear of criticism;

5.7.1.6 Not use their title and position to promote their own interests or the interests of others;

5.7.1.7 Discharge their duties in accordance with the law, Town of Georgina by-laws and AMPs policies, procedures and guidelines in effect from time to time; maintain and upgrade their knowledge and competence through their work, by participating in training and education courses as required by the Town of Georgina, including training relating to implicit bias, and by seeking guidance from their colleagues and the Town of Georgina, as necessary;

5.7.1.8 Remain up to date on changes in the law, Town of Georgina by-laws, policies and procedures relevant to their function;

- 5.7.1.9 Act with integrity, as they are subject to ongoing public scrutiny;
- 5.7.1.10 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 AMPs;
- 5.7.1.11 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 AMPs and with their appointment;
- 5.7.1.12 Convey their decisions in plain language, including the reasons therefor where such are required;
- 5.7.1.13 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;
- 5.7.1.14 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;
- 5.7.1.15 Refrain from openly and publicly criticizing the administration of AMPs or the conduct of others, including Town of Georgina employees or members of Council. Screening Officers and Hearing Officers shall acknowledge that only the Director of Legislative Services or Designate may speak publicly on behalf of the Town of Georgina AMPs program. Any criticisms, suggestions or concerns related to AMPs shall be communicated through appropriate channels to the Director of Legislative Services or Designate;
- 5.7.1.16 Deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services; and
- 5.7.1.17 Not knowingly exercise a power or function for which they have not been trained or designated.

5.8 Without limiting the foregoing, Screening Officers, Hearing Officers and all persons involved in the administration of AMPs shall avoid activities or circumstances that create conflicts, whether real, potential or perceived, between their personal interests and their responsibilities in relation to AMPs, including situations where their personal interests or the perception that their personal interests could influence any decisions they make on behalf of the Town of Georgina. Any obligation, interest or participation, which would or could interfere with the fair and impartial administration of AMPs or the exercise of judgment in relation to AMPs, constitutes conflict of interest.

5.9 Every Screening Officer, Hearing Officer or Town of Georgina employee involved in the administration of AMPs, must disclose, in accordance with this Policy, any obligation, commitment, relationship or interest that poses a real, potential or perceived conflict with his or her duties in relation to or interests in the administration of AMPs.

5.10 Preventing Conflict of Interest

5.10.1 The keys to preventing conflicts of interest are identification, disclosure and withdrawal from the power of decision with respect to a Screening Review or Hearing Review.

5.10.2 The need for identification, disclosure and withdrawal from a Power of Decision or administrative role in relation to AMPs applies to any real, potential or perceived conflict of interest.

5.11 Reporting Conflicts of Interest

5.11.1 Screening Officers and Town of Georgina Employees

5.11.1.1 Screening Officers and Town of Georgina employees involved in the administration of AMPs shall notify the Director of Legislative Services of any conflict of interest, real, potential or perceived, that they may have in relation to a matter.

5.11.1.2 Hearing Officers

5.11.1.3 If a Hearing Officer becomes aware of any real, potential or perceived conflict of interest, the Hearing Officer shall notify the Director of Legislative Services.

5.12 Assignment of Alternate Screening Officer or Hearing Officer

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

5.12.1.1 In the case of a review of a Screening Review or Hearing Review that has not yet commenced, the Manager of Municipal Law Enforcement shall assign another Screening Officer or Hearing Officer to conduct the review to avoid actual, potential or perceived conflict of interest; or

5.12.1.2 In the case of a review of a Screening Review or Hearing Review that has commenced:

5.12.1.2.1 The Screening Officer or Hearing Officer, as the case may be, shall adjourn the review and withdraw from the Power of Decision; and

5.12.1.2.2 The Manager shall cause the Screening Review or Hearing Review to be recommenced and rescheduled with another Screening Officer or Hearing Officer.

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

5.14 The Manager of Municipal Law Enforcement or Designate may consult with The Director of Legislative Services, or his/her designate, for further guidance in regard to this Policy.

5.15 Where a Screening Officer or Hearing Officer is charged with any offence under the Criminal Code of Canada, or under any other Federal or Provincial statute or Regulation where continuing to perform duties may erode public confidence in the administration of justice, the Screening Officer or Hearing

Officer shall disclose same to the Director of Legislative Services within 5 business days of the charge being laid, and appropriate action will be taken by the Town of Georgina, which, if determined appropriate, may include suspension from duties until the final disposition of the charge and, upon final disposition, may include, but is not limited to, termination of duties related to AMPs and/or revocation of appointment.