

# Corporate Procedure

## Subject: Administrative Monetary Penalty System (AMPS) – Conflict of Interest

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### Purpose:

This Policy addresses conflict of interest relating to The Corporation of the Town of Caledon (Town) Administrative Monetary Penalty System (AMPS) for the administration of designated by-laws, and camera detected offences.

Ontario Regulation 333/07, pursuant to the Municipal Act, the Town has developed standards relating to the system of administrative penalties which shall include policies and procedures to prevent conflicts of interest in the administration of the AMPS system.

This Policy outlines conflict of interest guidelines for the administration of the AMPS. These guidelines aim to uphold the principles of justice, including judicial and prosecutorial independence, fairness, impartiality, competence, and integrity, in the execution of AMPS responsibilities.

### Definitions:

Term	Definition
<b>AMPS</b>	Administrative Monetary Penalty System established pursuant to the Administrative Monetary Penalty System By-law.
<b>Council</b>	Means the Council of the Town of Caledon.
<b>Commissioner</b>	Means the Person or designate or successor with decision making authority and overall responsibility for the Administrative Monetary Penalty System at the Town.
<b>Employee Code of Conduct Policy</b>	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.
<b>Hearing Officer</b>	Means a Person appointed by the <b>Town</b> pursuant to the Screening and Hearing Officer By-law, to perform the duties of a <b>Hearing Officer</b> in accordance with this By-law, Ontario Regulation 355/22 under the Highway Traffic Act, Ontario Regulation 333/07 under the <i>Municipal Act, 2001</i> , and pursuant to the <b>Town's</b> Hearing policies.
<b>Relative</b>	Includes any of the following <b>Persons</b> :  (a) spouse, common-law partner, or any <b>Person</b> with whom the <b>Person</b> is living as a spouse outside of marriage; (b) <b>Parent</b> or legal guardian; (c) child, including a step-child and grandchild; (d) siblings and children of siblings;



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	(e) aunt, uncle, niece and nephew; (f) in-laws, including mother, father, sister, brother, daughter and son; or (g) any <b>Person</b> , including but not limited to a dependent, who lives with the <b>Person</b> on a permanent basis.
<b>Person</b>	Includes an individual, sole proprietorship, partnership, limited partnership, trust or corporation, or an individual in their capacity as a trustee, executor, administrator or other authorized agent.
<b>Power of Decision</b>	Means a power or right, conferred by or under this By-law and the Administrative Monetary Penalty System By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any <b>Person</b> .
<b>Screening Officer</b>	Means a Person appointed by the Town pursuant to the Screening and Hearing Officer By-law, to perform the duties of a Screening Officer in accordance with this By-law, Ontario Regulation 355/22 under the Highway Traffic Act, Ontario Regulation 333/07 under the Municipal Act, 2001, and pursuant to the Town's Screening policies.
<b>Town</b>	Means The Corporation of the Town of Caledon and the geographical limits of the Town of Caledon.

## Scope:

This **Policy** applies to all **Screening Officer(s)**, **Hearing Officer(s)** and all **Town** officials and staff involved in the administration of **AMPS**.

- The following shall apply in addition to this **Policy**:  
This **Policy** shall apply in addition to all applicable **Town** policies. A breach of **Town** policy relevant to any matters set out in this **Policy** shall be deemed to be a breach of this **Policy**.
- For **Town** employees and staff involved in the administration of the AMPS program, any applicable and in force corporate policy shall also apply 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 applicable corporate policy, in relation to **AMPS**, this **Policy** shall supersede.
- **Hearing Officers** are subject to the terms of their retainer agreement with the **Town**. In the event of a conflict between this **Policy** and the retainer agreement, the provisions of this **Policy** shall take precedence.

For **Members of Council**, this **Policy** must be understood and applied in alignment with applicable Provincial legislation, such as the *Municipal Conflict of Interest Act*, as well as the Council Code of Conduct and its associated policies, procedures, and guidelines.

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*Conflict of Interest*

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A conflict of interest arises when a **Screening Officer**, **Hearing Officer**, or **Town** staff member involved in **AMPS** administration has a personal or business interest that could compromise the impartial and objective execution of their duties. This includes any actual, perceived, or potential conflict, whether pecuniary or non-pecuniary, arising from personal or business matters. A conflict of interest could arise in relation to personal or business matters including:

- (a) directorships or employment;
- (b) interests in business enterprises or professional practices;
- (c) share ownership or beneficial interests in trusts;
- (d) professional or personal associations with a **Person**;
- (e) professional associations or relationships with other organizations; and
- (f) personal associations with other groups or organizations, or family relationships including **Relatives**.

**Screening Officers** and **Hearing Officers** have an obligation to conduct screening reviews and **Hearing Reviews** in an impartial manner at all times. **Hearing Officers**, in accordance with 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, legitimate expectation, etc.). It would be inappropriate for a **Hearing Officer** to review a screening 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** and **Town** employee involved in the administration of **AMPS**, must disclose to the **Commissioner** of Corporate Services 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 **AMPS** program.

Additionally, a **Screening Officer** or **Hearing Officer** shall not represent any **Person** at a **Screening Review** or **Hearing Review**.



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## Appointment of Screening and Hearing Officers

The Screening and Hearing Officer By-law sets out the rules regarding the appointment of **Screening Officers** and **Hearing Officers** and preference shall be given to candidates with knowledge and experience in administrative law and with demonstrated ethical and sound judgment.

**Screening Officers** are individuals appointed by the **Commissioner** of Corporate Services within the **Town** to conduct **Screening Reviews** in the public interest.

**Hearing Officers** are individuals appointed by the **Commissioner** of Corporate Services within the **Town** to conduct **Hearing Reviews** in the public interest.

The following individuals are not eligible for appointment as a **Screening Officer** or **Hearing Officer**:

- (a) In the case of a **Hearing Officer**, an employee of the Town of Caledon;
- (b) A **Relative** of a Town of Caledon employee;
- (c) A member of Council or **Relative** of a member of Council;
- (d) A **Person** indebted to the **Town**, other than:
  - i. in respect to current property taxes; or
  - ii. pursuant to an agreement with the **Town**, where the **Person** is in compliance with the terms thereof.

## Conduct of Screening and Hearing Officers

All **Screening Officers** and **Hearing Officers** shall conduct themselves in the following manner:

- (a) both be and appear to be independent, impartial, and unbiased;
- (b) avoid all conflicts of interest, whether real or perceived, and are responsible for promptly taking appropriate steps to disclose, resolve, or obtain advice with respect to such conflicts when they arise;
- (c) shall not be influenced by partisan interests, public opinion, or by fear of criticism;
- (d) shall not use their title and position to promote their own interests or the interests of others;
- (e) shall discharge their duties in accordance with the law, **Town** by-laws and **AMPS** policy, procedures and guidelines;
- (f) shall maintain their competence through their work, by participating in training and education courses and by seeking guidance from their colleagues with the **Town**, as required;
- (g) shall remain up to date on changes in the law with respect to **Town** by-laws, policy and procedures relevant to their function;



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- (h) are subject to ongoing public scrutiny and therefore they must 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 the **AMPS** program;
- (i) Shall approach their duties in a calm and courteous manner when dealing with the public and others and should present and conduct themselves in a manner consistent with the integrity of the **AMPS** system and their appointment;
- (j) Shall convey in plain language their decisions and the reasons therefore where such are required;
- (k) must safeguard the confidentiality of information that comes to them by virtue of their work and should not disclose that information except as required by law;
- (l) In discharging their duties, must treat those with whom they deal in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those **Persons**;
- (m) with administration of natural justice paramount;
- (n) shall refrain from openly and publicly criticizing the administration of the **AMPS** program or the conduct of others. Any criticisms, suggestions, or concerns related to the **AMPS** program should be communicated only by the **Commissioner**, Corporate Services;
- (o) Shall deal with the tasks that come before them in a timely manner and should make themselves accessible to those requiring their services;
- (p) must not knowingly exercise a power or function for which they have not been designated.

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**.

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.

Every **Screening Officer, Hearing Officer** or **Town** 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**.



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## Preventing Conflict of Interest

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**.

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.

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 **Commissioner**, Corporate Services of the conflict of interest and

- (a) 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 to avoid actual or potential conflicts of interest; or
- (b) in the case of a review of a **Screening Review** or **Hearing Review** that has commenced:
  - i. the **Screening Officer** or **Hearing Officer**, as the case may be, shall adjourn the review and withdraw from the Power of Decision; and
  - ii. the **Commissioner**, Corporate Services shall cause the **Screening Review** or **Hearing Review** to be recommenced and rescheduled with another **Screening Officer** or **Hearing Officer**.

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

Where a **Screening Officer** or **Hearing Officer** is charged with an offence under the Criminal Code of Canada, provincial statute or any other federal or provincial statute or regulation that is dealt with under the Criminal Code of Canada, such charge shall be disclosed forthwith to the **Commissioner**, Corporate Services.

Where a **Screening Officer** or **Hearing Officer** is charged with an offence under the Criminal Code of Canada or any other federal or provincial statutes or regulations and where continuing to perform his or her duties may erode public confidence in the administration of the **AMPS** program, the charge shall be disclosed to the **Commissioner**, Corporate Services.

A determination will be made by the **Commissioner**, Corporate Services as to whether or not an actual or perceived conflict of interest exists or if public confidence in the administration of the **AMPS** program has been compromised and, if so, the **Screening Officer** or **Hearing Officer** may be removed from his or her duties until the final disposition of the charge.



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## Addressing Conflicts of Interest

The **Town** Employee Code of Conduct will address any breaches of the Code by employees.

If an individual suspects that a **Screening Officer** or **Hearing Officer** conducted a **Screening Review** or **Hearing Review** where there was a conflict of interest, the individual may:

- (a) submit a complaint to the **Commissioner**; and/or
- (b) submit a formal complaint, in accordance with the **Town's** Public Complaints Respecting Administration of the **AMPS**.

Any finding of a conflict of interest, shall be reported to the **Commissioner**, Corporate Services by the responsible **Town** official, including any recommendation for appropriate disciplinary action, up to and including revocation of appointment.

## Influence

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 **AMPS**.

No **Person** shall attempt, directly or indirectly, to communicate for the purpose of influencing or interfering, financially, politically or otherwise, a **Screening Officer** or **Hearing Officer** respecting the determination of an administrative penalty matter and/or respecting a delegated power of decision in a proceeding that is or will be pending before the **Screening Officer** or **Hearing Officer**, except a **Person** who is entitled to be heard in a **Screening Review** or **Hearing Review**.

## Accountability

All **Screening Officers**, **Hearing Officers** and City staff involved in the administration of the **AMPS** program is 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 **Commissioner**, Corporate Services.

## Reference and Related Documents:

*Municipal Act, 2001;*

*Ontario Regulation 333/07 (Administrative Penalties);*

*Town of Caledon AMPS By-law #2024-086;*

*Town of Caledon Corporate Policy and Procedure relating to Employee Conduct and Conflict of Interest;*

*Town of Caledon Public Complaints Procedure*

