

	Policy:	Administrative Monetary Penalties System - Undue Hardship		
	Department:	Clerk		
	Administered By:	Clerk's Office	Effective Date:	
	Replaces:	N/A		
	Attachment(s):	N/A		

POLICY STATEMENT

The Town wishes to establish a Policy to assist 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 Penalties 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 Administrative Penalties System 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 in order to reduce Undue Hardship. This Policy provides guidance to Screening Officers and Hearing Officers when considering claims of Undue Hardship in exercising their discretion in accordance with the By-law. While the By-law authorizes Screening and Hearing Officers to cancel, reduce, or extend the time for payment of a penalty based on several factors, this Policy specifically supports decisions related to Undue Hardship. It does not replace or limit the full discretion available to Officers under the By-law, including considerations related to reasonable steps, doubt as to contravention, or alignment with the intent of the By-law.

DEFINITIONS

“AMPS By-law” means the Administrative Monetary Penalties Systems By-law adopted by the Town, as amended or replaced from time to time;

“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 difficulty of paying the Administrative Penalty or Administrative Fee;

“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;

“Records Retention By-law” means the by-law passed by the Town providing for the classification retention and disposition of records in the Town, as amended from time to time, or any successor thereof;

“Undue Hardship” means Financial Hardship, or other extenuating circumstances based on compassionate grounds.

All other capitalized terms used in this Policy have the meanings ascribed to them in the AMPS By-law.

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 AMPS By-law.

POLICY

Process

A Screening Officer undertaking a review of a Penalty Notice and a Hearing Officer conducting an appeal of a Screening Decision 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 or Hearing 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.

Screening and Hearing Officers must consider Undue Hardship in the context of all applicable criteria outlined in the By-law.

Documentation to support Undue Hardship

A Person who wishes to seek relief pursuant to the AMPS By-law on the basis of Undue Hardship should bring documentation to support their claim to the Screening Review or Hearing Review.

A Screening Officer or Hearing Officer may also consider the oral evidence provided by the Person in relation to Undue Hardship.

Addressing Claims of Undue Hardship

A Screening Officer or Hearing Officer should generally not cancel a Penalty Notice due to claims of Undue Hardship, as achieving compliance is a priority, and should prioritize other means of addressing Undue Hardship such as reducing the amount of the Administrative Penalty or extending the time to pay the Administrative Penalty.

Records Retention

All information and documentation provided to the Town in support of claims of Undue Hardship shall be subject to the Municipal Freedom of Information and Protection of Privacy Act. Digital copies of the documentation may be required and attached to the Screening Decision and/or Hearing Decision record and will be retained according to the Town's Records Retention By-law.

COMPLIANCE

In cases of Policy violation, the Town may investigate and determine appropriate corrective action.

POLICY COMMUNICATION

This Policy shall be posted on the Town's website. Employees shall be advised of the new Policy via distribution to Human Resources staff. This Policy shall form part of the orientation for all Screening Officers, Hearing Officers, Enforcement Officers and administration employees.

RELATED DOCUMENTS/LEGISLATION

- Municipal Freedom of Information and Protection of Privacy Act
- AMPS By-law
- Records Retention By-law