

Corporate Policy and Procedure



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| Policy | APS Policy – Undue Hardship |
| Category | Corporate |
| Authority | Legal and Court Services |
| Related Policies | Listed below. |
| Approved By | Trevor Lee, Deputy Chief Administrative Officer, Corporate Services |
| Effective Date | Tuesday, April-01-2025 |
| Revision Date | Tuesday, February 04, 2025 |

Policy Statement

The Corporation of the City of Guelph requires and values that its Administrative Penalty System (APS) be administered in a transparent and ethical manner in accordance with applicable legislation and Council-approved by-laws.

Pursuant to O. Reg. 333/07: Administrative Penalties, made under the *Municipal Act, 2001*, a municipality establishing an APS is required to have procedures that permit persons to be excused from paying all or part of an Administrative Penalty, including any Administrative Fees, if requiring them to do so would cause undue hardship.

Purpose

The 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 in order 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 Administrative Penalty By-law No. This Policy is not intended to provide criteria for establishing undue hardship in respect of other City of Guelph programs or services.

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 City's Administrative Penalty By-law.

Definitions

Administrative Fee means any fee specified in the Administrative Penalty By-law;

Administrative Penalty means an administrative penalty established by the Administrative Penalty By-law for a contravention of a designated by-law, as defined therein;

Administrative Penalty By-law means By-law No. (2025) - XXXX passed by the City to establish administrative penalties for parking, as amended from time to time, or any successor thereof;

Administrative Penalty System or **APS** is a City-administered system established by the Administrative Penalty By-law for the administration of civil penalties in respect of the failure to comply with a designated by-law;

City means The Corporation of the City of Guelph;

Council means the Council of the City of Guelph;

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;

General Manager / City Solicitor means the General Manager of Legal and Court Services / City Solicitor for the City of Guelph, or anyone designated by the General Manager to perform their duties relating to the APS;

Hearing Officer means any person appointed, 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 and the Administrative Penalty By-law;

Hearing Decision means a notice which contains the decision of a Hearing Officer, as set out in Section 6 of the Administrative Penalty By-law;

Hearing Review means the process related to review of a Screening Decision, as set out in Section 6 of the Administrative Penalty By-law;

MFIPPA 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;

Penalty Notice means a penalty notice as described in Section 4 of the Administrative Penalty By-law;

Person includes an individual, corporation or other legal entity;

Policy means this APS Policy – Undue Hardship;

Records Retention By-law means By-law No. (2020) - 20543 passed by the City providing for the classification retention and disposition of records in the City of Guelph, as amended from time to time, or any successor thereof;

Screening Decision means a notice which contains the decision of a Screening Officer, as set out in Section 5 of the Administrative Penalty By-law;

Screening Officer means any person appointed, 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 and the Administrative Penalty By-law;

Screening and Hearing Officer By-law means By-law No. (2025) - XXXX passed by the City of Guelph to establish the positions of Screening Officer and Hearing Officer and to provide for the appointment of Screening Officers and Hearing Officers, in relation to administrative penalties, as amended from time to time, or any successor thereof;

Screening Review means the process related to a review of a Penalty Notice, as set out in Section 5 of the Administrative Penalty By-law;

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

Policy

Screening Officer and Hearing Officer Authority

In accordance with the Administrative Penalty By-law, a Screening Officer or Hearing Officer:

- may confirm, 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
- 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.

Documentation to Support Financial Hardship

A Person who wishes to seek relief pursuant to the 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:

- Old Age Security;
- Canada Pension;
- Guaranteed Income Supplement;
- Disability Pension;
- Ontario Student Assistance Program; or
- 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.

Records Retention

All information and documentation provided in support of financial or undue hardship shall be treated in a confidential manner, in accordance with MFIPPA. 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.

Policy Communication

This Policy will be communicated internally and externally as follows:

- This Policy will be posted on the City's website and intranet;
- Employees will be advised of the Policy and any amendments or replacements, from time to time, via distribution to the Executive Leadership Team and/or Corporate Leadership Team;
- Members of Council shall be provided with a copy of this Policy; and
- This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and City employees and independent contractors involved in the administration or enforcement of the APS.

Monitoring and Compliance

In accordance with the City of Guelph policies, collective agreement, and applicable legislation, any employee or appointee found to be demonstrating actions and/or behaviours that are not consistent with the terms of this Policy will result in an investigation, subject to possible discipline up to and including revocation of appointment and/or termination of employment.

Related By-laws and Policies

- By-Law No. (2025) - XXXX Administrative Penalty By-law
- By-Law No. (2025) - XXXX Screening and Hearing Officer By-law
- APS Policy – Appointment of Screening Officers and Hearing Officers
- APS Policy – Conflict of Interest and Code of Conduct
- APS Policy – Financial Management and Reporting
- APS Policy – Preventing Political Interference
- APS Policy – Public Complaints

References

- *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.
- O. Reg. 333/07: Administrative Penalties made under the *Municipal Act, 2001*.
- *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56, as amended.

Review Timeline

This policy will be reviewed two years from the initial Effective Date, and at two-year intervals thereafter.