



# The Corporation of the Town of Milton

---

Report To: Council

---

From: Meaghen Reid, Director, Legislative & Legal Services/Town Clerk

---

Date: August 23, 2021

---

Report No: CORS-044-21

---

Subject: Administrative Penalties System (APS) Project Status Update

Recommendation: **THAT the necessary by-law, included on the August 23, 2021 Council meeting agenda, be considered for approval;**

**THAT the policies attached to this report in Schedules A to F be adopted and be incorporated into the Town's Corporate Policy Manual;**

**THAT the administration fees as set out in this report be approved and included in Town's User Fee Bylaw at the next available opportunity;**

**THAT the necessary additional staffing resources (i.e. 1 new Licensing and Enforcement Clerk and 1.5 new Screening Officers), be approved to implement and successfully maintain the APS program as outlined in this report;**

**AND THAT the Mayor and the Town Clerk be authorized to sign and execute any necessary agreements with the Ministry of Transportation (MTO) or any other government agency to administer the APS program, subject to the approval of the Town's Solicitor.**

## EXECUTIVE SUMMARY

- On March 2, 2020, a business case was presented to Council and staff received direction to proceed with the implementation of an Administrative Penalties System (APS), also referred to as an administrative monetary penalty system and to bring forward the necessary policies and by-laws required to administer the APS program for Council's consideration.
- An APS program will move the dispute mechanism for violations of the Town's parking by-laws from a court-based resolution system to an administrative review

## EXECUTIVE SUMMARY

model. The benefits of this program will include: improved customer service, efficiencies for the public and for staff, as well as a net revenue.

- In order to proceed with the implementation of an APS program for parking penalties, an establishing by-law and policies must be adopted in advance of the effective date (February 1, 2022). A draft by-law and required policies have been developed by the staff working group and are being presented as part of this report and meeting agenda for Council's consideration.

## REPORT

### Background

At the Council meeting held on March 2, 2020, [Staff Report CORS-008-20](#) and related business case were presented to Council with respect to an Administrative Penalties System (APS). At this meeting, Council directed staff to proceed with the implementation of an APS system and to bring forward the necessary policies and by-laws required to implement and administer the APS program for Council's consideration.

An APS program is an alternative system to the lengthy and costly provincial courts process that is currently in place. This change will move the dispute mechanism for violations of the Town's parking by-laws from a court-based system to an administrative review model. APS provides an objective and efficient process where penalty notices are issued, managed and reviewed. A Screening Officer conducts an initial review of the reported offence and makes a decision to reject, reduce or confirm the penalty. Should the customer disagree with the Screening Officer's decision, the matter is referred to an independent Hearing Officer who would make a final decision.

As noted in [Staff Report CORS-008-20](#), the following benefits are associated with the implementation of an APS system for parking penalties:

1. Improved customer experience: With an APS program, regulatory matters can be resolved online or at Town facilities and would no longer require in-person participation, a justice of the peace, the municipal prosecutor and the officer who laid the charge.
2. Efficiencies: Currently, POA trials are often scheduled months in advance, extending the public's wait times to resolve their cases related to parking tickets and tying up court resources required for other cases, such as non-compliance with Milton's Zoning Bylaw, the Ontario Building Code Act and Fire Protection and Prevention Act. With an APS program, hearings to challenge a parking ticket would be scheduled within a few weeks of receiving the parking ticket. Staff and

## Background

enforcement officer time is used more efficiently as they no longer need to prepare for and attend provincial court.

3. **Net Revenue:** The financial benefit is the result of the increased revenues generated from the anticipated volume of notices and related fees. These higher revenues are partially offset by the additional staffing and other resources required to deliver the APS program. The initial investment considers the establishment of the information technology solutions that will be required for the program.

At the March 2, 2020 Council meeting, it was communicated that staff would proceed with an APS implementation plan that would include: the development of the required policies, procedures and bylaws, recruitment and training of staff, software implementation and development of the required communications plan.

While the primary focus would be non-compliance of Milton's parking regulations, it is also important to note that the APS model is intended to be developed further in the future and used for reviewing most regulatory infractions.

## Discussion

Staff have been working through an implementation plan for an APS program for parking penalties. This project is set for an effective date of February 1, 2022 for the APS program for parking penalties.

Work on this project has been completed in consultation with staff from Legislative and Legal Services, Finance, Information Technology (IT) and AMPS Consulting and Professional Services Inc.

In order to proceed with the implementation of an APS program, an establishing by-law and policies must be adopted in advance of the effective date. A draft by-law and required policies have been developed by the staff working group and are being presented as part of this report and meeting agenda for Council's consideration.

### **APS Establishing By-law**

In accordance with Ontario Regulation 333/07, a municipality must pass a by-law to establish APS. A draft by-law for the establishment of an APS program has been included in this agenda as By-law 71-2021. This by-law includes provisions related to notice, financial management, screening, hearings and other general regulations.

The penalties included within Schedule B of draft By-law 71-2021 have largely remained the same as the existing parking set fines approved by the Province. Following a cursory review of the parking penalties, staff have recommended that changes to penalty



## Discussion

amounts for specific infractions that have been identified as having significant impacts to public safety and in order to bring these penalty amounts in line with neighbouring municipalities. Draft By-law 71-2021, included on this meeting's agenda, includes the following recommended changes to parking penalty amounts for Council's consideration:

- Stopped in prohibited area - penalty increased from \$50.00 to \$75.00
- Parking in a designated fire route - penalty increased from \$100.00 to \$120.00
- Park in an accessible ("designated disabled") parking space without permit - penalty increased from \$300.00 to \$400.00

New administrative fees are recommended to be established effective February 1, 2022 as follows:

Fee	Description	Amount (before taxes)
Certified Registered Owner Document	A fee for recovery of search costs for the vehicle registered owner information required for past due and overdue notices to be mailed to registered owner of the vehicle.	\$20
Late Payment	A late fee is charged when a Penalty Notice is served and not paid within the established timeframe.	\$30
MTO Search Fee	A fee is charged when the Penalty Notice has reached the stage where the Penalty Notice is being registered for Plate Denial.	\$10
MTO Plate Denial	A fee is charged when the Penalty Notice has exceeded the established timeframe for response and is accepted by the MTO for collection.	\$26
Screening Fail to Appear	Defendant fails to attend a scheduled Screening review that the defendant requested of the Penalty Notice received.	\$50
Hearing Fail to Appear	Defendant fails to attend a scheduled Hearing review that the defendant requested of the Penalty Notice received.	\$100

These fees have been set to recover costs associated with administration procedures undertaken by Town staff. The reasonableness of the calculated fees has been validated through a market scan of similar fees of neighboring municipalities.

Staff recommend that the administrative fees be approved through this report and added to the Town's User Fee Bylaw at the next available opportunity where they will be subject

## Discussion

to annual inflationary increases to ensure the fees continue to recover the cost of the service provided.

Although the implementation date for this program is February 1, 2022, it is important to adopt the by-law as soon as practicable as a new agreement with the Ministry of Transportation (MTO) is required, and staff have been informed that this new agreement could take three or more months to be obtained. Staff will work to coordinate any necessary agreements with the (MTO) and any other government agency to administer the APS program once the by-law has been adopted.

Staff will advise the Halton Court accordingly in advance of the February 1, 2022 effective date for APS to coordinate required process changes.

### APS Policies

Ontario Regulation 333/07 made under the *Municipal Act, 2001* requires a municipality implementing an establishing an Administrative Penalty System (APS) to establish:

- (a) policies and procedures to prevent political interference in the administration of the system;
- (b) guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur;
- (c) policies and procedures regarding financial management and reporting; and
- (d) procedures for the filing and processing of complaints made by the public with respect to the administration of the system.

As such, the following policies have been included in Schedules A to F of this report for consideration: interference, conflict of interest, complaints, time and payment extensions and refunds.

Following adoption of the establishing by-law for the APS program and the required policies, staff will proceed with implementing administrative and financial protocols, screening and hearing procedures, software changes, communication and public education tools in preparation for the APS program effective date on February 1, 2022.

### Staffing Resources

[CORS-008-20](#) and the related business case were presented to Council highlighting a 2.5 FTE staffing complement increase. These staffing resources were factored into the calculation of the net financial impact of moving to the APS program. These positions were included in the business case as part of the ongoing expenditures funded by net new revenue to support the operation of the program, provide a more efficient penalty resolution process and an enhanced customer experience.



## Discussion

The business case recommended the following additional Full Time Equivalents (FTEs):

- 1 additional Licensing and Enforcement Clerk FTE to boost the Town's processing capacity and to handle additional customer service inquiries about the APS system
- 1.5 Screening Officer FTE to perform screenings for disputed penalties and to perform related administrative duties, based on anticipated volume of disputed penalties

It is recommended that the increased FTE complement set out within the previously-approved business case be pre-approved in advance of the 2022 budget, in order to move forward with implementation plans for the APS program effective date of February 1, 2022. If approved by Council, recruitment will begin in late 2021 with a start date no sooner than January 1, 2022.

## Financial Impact

As outlined in Staff Report CORS-008-20 and associated business case received by Council on March 2, 2020, an APS system identifies an opportunity to potentially generate an incremental net revenue of \$100,600 per year through the APS program once fully implemented. The potential financial benefit is the result of increased revenues generated from the anticipated volume of notices and related fees. These higher revenues are partially offset by the additional staffing and other resources required to deliver the APS program.

The revenues, costs and staffing requirements will continue to be validated as part of the implementation plan and will be incorporated into the 2022 proposed budget and subsequent variance reporting.

Respectfully submitted,

Troy McHarg  
Commissioner, Corporate Services

For questions, please contact: Mary Beth McMullen,  
Manager, Licensing and  
Enforcement

Phone: Ext. 2133



# The Corporation of the Town of Milton

Report #:  
CORS-044-21  
Page 7 of 7

## Attachments

Schedule A - Draft interference policy for APS program  
Schedule B - Draft conflict of interest policy for APS program  
Schedule C - Draft complaints policy for APS program  
Schedule D - Draft extension of time to pay policy  
Schedule E - Draft extension of time to review policy  
Schedule F - Draft refund policy

CAO Approval  
Andrew M. Siltala  
Chief Administrative Officer





<b>POLICY:</b> Interference	<b>NO. OF PAGES:</b> 2
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws in force in the Town. The Town has authorized the appointment and use of Screening and Hearing Officers to hear and decide the outcome of disputes related to Penalty Notices issued for parking violations. The Town requires that employees conduct themselves responsibly and professionally in the performance of their duties.

### **Purpose**

To provide a standardized guideline to define what constitutes interference in relation to the Screening and Hearing Officers, to prevent such interference. In accordance with Ontario Regulation 333/07, the Town is required to establish a Policy for the prevention of political interference in APS.

### **Principles of Preventing Political Interference**

This policy applies to the Mayor, members of Council, all employees of the Town of Milton, volunteers, contractors and consultants to the Town.

The positions of Screening Officers and Hearing Officers are established for the purpose of exercising Delegated Powers of Decision.

“Delegated Power of Decision” means a power or right, conferred by a Town By-law, to prescribe the legal rights, powers, privileges, immunities, duties and/or liabilities of any person or party;

No person shall attempt, directly or indirectly, to communicate with or influence a Hearing Officer, or other employees or individuals performing duties related to the administration of APS respecting the determination of an issue respecting a Delegated Power of Decision, in a proceeding that is or will be pending before the Hearing Officer except a person who is entitled to be heard in the proceedings or the person’s



agent and only by that person or their agent during the hearing of the proceeding in which the issued arises.

All individuals involved with the enforcement and administrative functions of the APS program shall carry out such duties in a manner which upholds the integrity of the administration of justice.

### **Implementation**

All Members of Council shall be provided with a copy of this Policy;

This Policy shall form part of the orientation for all Members of Council at the start of a new term of Council, as well as all current and new municipal officials and staff, with the potential for interaction with the APS program; and

This Policy shall form part of the orientation for all current and new Screening Officers and Hearing Officers and APS administration staff.

### **Accountability**

Where any employee, Screening Officer, Hearing Officer or other person performing duties related to APS, is contacted by a Member of Council or Town official with respect to the administration of APS, he or she shall immediately disclose such contact to the Director of Legal & Legislative Services in order to maintain the integrity of APS; and

A Screening Officer or Hearing Officer shall disclose any actual, potential or perceived political interference as soon as possible to the Director of Legal & Legislative Services.

Cases involving members of Council will be referred to the Integrity Commissioner for their review and report.

This does not prevent a Screening Officer or Hearings Officer from seeking and receiving advice from an appropriate member of the Town's staff.

Proceedings before a Hearings Officer shall be subject to the *Statutory Powers Procedures Act*.



<b>POLICY:</b> Screening & Hearing Officer Conflict of Interest	<b>NO. OF PAGES:</b> 7
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws in force in the Town. The Town has authorized the appointment and use of Screening Officers and a Hearing Officer to hear and decide the outcome of disputes related to Penalty Notices issued for parking violations. The Town requires that employees conduct themselves responsibly and professionally in the performance of their duties.

### **Purpose**

To provide a standardized guideline to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur.

In accordance with Ontario Regulation 333/07, this policy is to establish conflict of interest guidelines to ensure that the APS program administration and responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence, and integrity.

### **Application**

This policy applies to the person(s) appointed by the Town of Milton into the role as Screening Officers, Hearing Officers, and all Town officials and any employee involved in the administration of APS.



## 1. Definitions

For the purpose of this policy, the following definitions are defined in accordance with the Town's Administrative Penalties By-law:

“APS” means Administrative Penalty System;

“Council” means the Council of the Town;

“Delegated Power of Decision” means a power or right, conferred by or under a Town By-Law, to make a decision deciding or prescribing,

- i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
- ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or license, whether the person is legally entitled thereto or not.

“Director of Legislative & Legal Services” means the Director of Legislative & Legal Services, or designate, or anyone designated by the Director of Legislative & Legal Services to perform duties pursuant to the Administrative Penalty System (APS);

“Hearing Review” means the process set out in Administrative Penalties By-law;

“Hearing Officer” means the person who performs the functions of a Hearing Officer in accordance with the Administrative Penalties By-law;

“Penalty Notice” means a notice given to a Person pursuant to the Administrative Penalties By-law;

“Person” includes an individual, or a business name, sole proprietorship, corporation, partnership or an authorized representative thereof, whose name appears on the vehicle license plate portion of the permit as provided by the Ontario Ministry of Transportation is the Person for the purposes of this Policy.



“Relative” includes any of the following Persons:

- (i) “Child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of their family;
- (ii) “Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (iii) Siblings and children of siblings
- (iv) Aunt, uncle, niece and nephew
- (v) “Parent” means a person who has demonstrated a settled intention to treat a child as a member of their family whether or not that person is the natural parent of the child or is the legal guardian;

“Screening Decision” means a notice or report which contains the decision of a Screening Officer delivered in accordance with the Administrative Penalties By-law;

“Screening Officer” means each person designated by the Director of Legislative & Legal Services to perform the functions of a Screening Officer pursuant to the Administrative Penalties By-law;

“Screening Review” means the process set out in the Administrative Penalties Bylaw;

“Town” means The Corporation of the Town of Milton;

## **1. Appointments of Screening Officers and Hearing Officers**

The Administrative Penalties By-law sets out the rules regarding the appointment of Screening Officers and Hearing Officers.

The positions of Screening Officers and Hearing Officers are established for the purpose of exercising Delegated Powers of Decision.

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

- a) A member of Council or a Relative of a Member of Council



- b) An individual indebted to the Town:
- i) in respect of current real property taxes; or
  - ii) pursuant to any other outstanding arrangement with the Town the terms with which the person is not in compliance.
  - (iii) is the subject of any outstanding fines or judgements as levied by any court of competent jurisdiction.
  - (iv) is in tax arrears and or in the collections process with the Town.
- c) In the case of a Hearing Officer, cannot be an employee of the Town.

## 2. Conflict of Interest

A conflict of interest arises where a Screening Officer, Hearing Officer or Town staff involved in the administration of the APS program has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the APS program. A conflict of interest could arise in relation to personal or business matters including:

- directorships or other employment;
- interests in business enterprises or professional practices;
- share ownership or beneficial interests in trusts;
- existing professional or personal associations with a Person;
- professional associations or relationships with other organizations; and
- personal associations with other groups or organizations, or family relationships including Relatives.

Screening Officers and Hearing Officers have obligations to conduct Screening Reviews and Hearing Reviews in an impartial manner at all times. Hearing Officers, in conducting 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 (as defined above). 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 APS, must disclose to the Director of Legal & Legislative 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 APS program. Additionally, a Screening Officer or Hearing Officer shall not represent any Person at a Screening Review or Hearing Review

### **3. Conduct of Hearing Officers**

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

- both be and appear to be independent, impartial, and unbiased.
- 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.
- shall not be influenced by partisan interests, public opinion, or by fear of criticism.
- shall not use their title and position to promote their own interests or the interests of others.
- shall discharge their duties in accordance with the law, Town by-laws and APS policy, procedures and guidelines.
- 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.
- shall remain up to date on changes in the law Town by-laws, policy and procedures relevant to their function.
- 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 APS program.
- 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 APS system and their appointment.
- Shall convey in plain language their decisions and the reasons therefore where such are required.
- 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.
- 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.
- with administration of natural justice paramount



- shall refrain from openly and publicly criticizing the administration of the APS program or the conduct of others. Any criticisms, suggestions, or concerns related to the APS program should be communicated only the Director of Legal & Legislative Services
- Shall deal with the tasks that come before them in a timely manner and should make themselves accessible to those requiring their services.
- must not knowingly exercise a power or function for which they have not been designated.

#### **4. Preventing Conflict of Interest**

The keys to preventing conflicts of interest are: identification, disclosure and withdrawal from the power of decision in regards to a Screening Review or Hearing Review.

The need for identification, disclosure and withdrawal from a power of decision applies to any real or perceived conflict of interest.

#### **5. Disclosure**

If a Screening Officer or Hearing Officer becomes aware of any real, perceived or potential conflict of interest in regard to a review of an administrative penalty or Screening Decision, as the case may be, the Hearing Officer shall notify the Town designate of the conflict of interest and;

- in the case of a scheduled review of a Penalty Notice or a Screening Decision that has not yet commenced, can request another Screening Officer or Hearing Officer to conduct the review to avoid actual, potential or perceived conflicts of interest.
- In the case of a review of Penalty Notice or Screening Decision that has commenced, adjourn the review and withdraw from the power of decision and advise the Director of Legal & Legislative Services or designate. The Town will reschedule the Screening Review or Hearing Review with another Screening Officer or Hearing Officer to handle the matter that is subject to the conflict of interest

Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notices and are expected to pay the administrative penalty for a parking infraction in a timely manner.



<b>POLICY:</b> Public Complaints	<b>NO. OF PAGES:</b> 6
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws in force in the Town.

An administrative penalty is a penalty imposed by By-Law staff on behalf of the Town, upon an offender within the context of an administrative process rather than a judicial process. The penalty, once confirmed is considered a debt owed to the Town

Any impacted member of the public may file a complaint regarding the administration of the system.

### **Purpose**

To provide a standardized, accessible, and efficient mechanism for filing and processing of complaints made by the public with respect to the administration of the system of administrative penalties.

### **Scope**

This guideline applies to any member of the public who has a complaint with respect to the administration of the system, provided that the member of the public has been directly affected by such alleged wrong doing. The complaint must be filed in accordance with the time limitations set out in this policy. This policy is not intended to replace other specific Town programs and legal processes available to address the Complainant's concerns.

### **Process**

The following procedure will be followed should a complaint be made with respect to the administration of the system.



## 1. Informal Resolution Stage

- a) Less serious complaints about the operation or administration of the program may be resolved by way of an informal resolution. The matter will be referred to the Director of Legal & Legislative Services or designate.

Brief details concerning the complaint, together with the Complainant's name and contact information, will be documented by the staff member who is first notified of the issue. The Complainant will be advised that all complaints need to be in writing before action is taken. Once the complaint is received in writing, the Director of Legal & Legislative Services or designate, will make initial contact with the complainant within **five (5)** working days not including postal delivery time for mailed correspondence. The Director of Legal & Legislative Services or designate will within **ten (10)** working days will attempt to resolve the issue informally through discussion with the Complainant.

- b) In the event that the matter has not been resolved to the satisfaction of the Complainant at the Informal Resolution Stage, the Complainant will be advised in writing, that if the Complainant wants the complaint to be processed through the formal complaint process, then the Complainant must submit a complete written complaint to the Director of Legal & Legislative Services or designate, within **ten (10)** working days of receiving the City's informal resolution response.
- c) The recipient of the formal complaint will forward a copy of the written complaint to the Director of Legal & Legislative Services or designate, for tracking purposes, immediately upon receipt of same.

## 2. Formal Complaint

### 2.1 Format of Complaint

Formal complaints must be in writing and must identify the name and full contact particulars of the Complainant. Complaints that are anonymous will not be acknowledged.



The Complainant may be asked to provide additional written details, supporting documentation, and records concerning the complaint to ensure a complete investigation can commence.

## **2.2 Time Limitations**

In order to achieve due process, a complaint must be made in a timely fashion, not later than thirty (30) days after the facts on which it is based became known, or reasonably ought to have become known to the Complainant. The Complainant must abide by limitations set out in this policy. These time limitations may only be extended when, in the opinion of the Director of Legal & Legislative Services or designate, if circumstances exist to reasonably justify the extension.

The Director of Legal & Legislative Services or designate will also adhere to the timelines set out in this policy unless circumstances exist to reasonably justify a delay. In the event that a delay becomes necessary, the Complainant shall be notified in writing of the reason for delay and will be advised of the date when the response will be forthcoming. A copy of the notification will be retained for tracking purposes.

## **2.3 Process**

- a) When a complaint is advanced to the Formal Complaint Stage, the Director of Legal & Legislative Services or designate will first make a determination whether the issue properly falls within the scope of this policy. The Director of Legal & Legislative Services or designate will determine whether:
- the Complaint is specific to the administration of the APS; and
  - the Complainant has been directly affected by the issue; and
  - the Complaint has been filed not later than thirty (30) days after the facts on which it is based became known, or reasonably ought to have become known, to the Complainant (or whether reasonable circumstances exist to justify the delay in submitting the complaint); or
  - the complaint is frivolous, vexatious, trivial or made in bad faith; or
  - this policy is the appropriate venue through which to consider the complaint, as opposed to any other parallel process that may be underway, regarding the alleged event that lead to the complaint.



In the event that the Director of Legal & Legislative Services or designate declines to investigate the formal complaint under this guideline because of his/her determination of any of the matters set out above, then written notification of the determination not to proceed will be provided to the Complainant within (10) working days of receipt of the complaint. The notification will advise the Complainant of the determination made.

A copy of the notification of the decision not to proceed will be provided to the Director of Legal & Legislative Services.

- b) Subject to a) above, the Director of Legal & Legislative Services or designate will commence a full investigation and may at a minimum, speak with the Complainant. The Director of Legal & Legislative Services or designate will attempt to ensure that as much information has been obtained as possible and will obtain and review any applicable background documents or records. In the event that the meeting with the Complainant yields additional concern(s) that are not directly related to the original written complaint filed, the Complainant may be asked to submit a separate written complaint(s) with respect to such additional concern(s). When dealing with a complaint of a very serious nature, other senior staff will assist.
- c) The Director of Legal & Legislative Services or designate will provide a written response concerning the complaint, set out his/her decision and, where appropriate, the reasons therefore, to the Complainant with a copy to the Director of Legal & Legislative Services, within thirty (30) working days of receipt of the complaint.
- d) A copy of the written response from the Director of Legal & Legislative Services or designate will be retained for tracking purposes.

### 3. **Expediting Process**

In the event that a complaint is received that relates to a very serious matter (i.e. involving a threat to health, safety or property), and the Director of Legal & Legislative Services or designate determines that the matters involved would increase the possibility of imminent damage or injury if not addressed, then the complaint will be expedited and will be processed immediately by the Director of Legal & Legislative Services, with notice to the Commissioner.



4. **Complaint Alleging Misconduct by Decision-Makers under the Policy**

In the event that a complaint arises alleging misconduct on the part of a decision-maker under this policy, the Director of Legal & Legislative Services or designate may assign a more senior staff member to conduct the investigation. For clarification, however, a formal complaint received regarding the exercise of judgment by management staff in accordance with and as required by this complaint resolution mechanism will not in itself constitute misconduct by such management staff and, therefore, will not result in an investigation under this policy

5. **Parallel Processes**

Due to the restricted scope of this policy, it is not anticipated that multiple internal and external processes associated with a matter referred to in a formal complaint will be initiated with respect to any single incident/occurrence. In the event that such a situation arises, the Town will make a determination concerning which process will govern the Town's involvement. The Town will make such determination while having due regard for all applicable legislative and common law processes and other specific Town policies and procedures.

6. **Withdrawal of Complaint**

A Complainant may withdraw their complaint at any time by providing a written request to withdraw; notwithstanding, the Town may continue to deal with the complaint if it considers it appropriate to do so. For tracking purposes, the Director of Legal & Legislative Services or designate will be notified that the complaint has been withdrawn and will be advised by the Director of Legal & Legislative Services or designate whether the investigation will continue nonetheless.

7. **Confidentiality**

The public complaint resolution mechanism will be handled as a confidential manner on a need to know basis according to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, c. M.56*. All parties involved will be advised to maintain the confidentiality of the complaints or incidents.



8. **Recordkeeping and Disclosure of Complaints**

The official records relating to this public complaint resolution mechanism will be managed by the Director of Legal & Legislative Services or designate according to the Town's Records Retention Bylaw.



<b>POLICY:</b> Extension of Time to Pay	<b>NO. OF PAGES:</b> 2
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws in force in the Town.

An administrative penalty is a penalty imposed by By-Law staff on behalf of the Town, upon an offender within the context of an administrative process rather than a judicial process. The penalty, once confirmed is considered a debt owed to the Town.

A Penalty Notice must be given to the Person as soon as is reasonably practicable and must include basic information that will inform the Person of the contravention, the penalty, the Person's right to request a review of the penalty and of the consequences in the event that the penalty is not reviewed.

The Town has authorized the appointment and use of Screening and Hearing Officers to hear and decide the outcome of disputes related to Penalty Notices issued for parking violations.

The system of administrative penalties incorporates defined options for the person against whom an administrative penalty is imposed to exercise, including an ability to request an extension of time for payment of an administrative Penalty Notice.

### **Purpose**

To establish the basis and method by which an extension to the time to pay may be considered.

### **Scope**

The Person has a time-limited right to request a review of the administrative penalty by a Screening Officer.



Within 15 days of the date of the Penalty Notice the Person will have the option to:

- 1) make a voluntary payment; or
- 2) request a review of the administrative penalty by a Screening Officer.

### **Extension of Time for Payment**

#### **Screening Officer**

The Screening Officer has a residual discretion to cancel, reduce or to extend the time for payment of an administrative penalty. This is intended to address obvious errors without requiring a Person to pursue review by a Hearing Officer.

The Screening Officer will consider reasonable requests for an extension of time to pay on a case-by-case basis, but is not obligated to grant the extension.

#### **Hearing Officer**

The Hearing Officer only has the authority to either,

- cancel or confirm the administrative penalty; and/or
- extend the time for payment of an administrative penalty.

As with the Screening Officer, the Hearing Officer will consider reasonable requests for extension in the time to pay on a case-by-case basis, but is not obligated to grant the extension.

The extension of time by either the Screening Officer or Hearing Officer should not exceed 180 days.

The decision of the Hearing Officer is final.



<b>POLICY:</b> Extension of Time to Review	<b>NO. OF PAGES:</b> 3
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws in force in the Town.

An administrative penalty is a penalty imposed by By-Law staff on behalf of the Town, upon an offender within the context of an administrative process rather than a judicial process. The penalty, once confirmed is considered a debt owed to the Town.

The Town has authorized the appointment and use of Screening and Hearing Officers to hear and decide the outcome of disputes related to Penalty Notices issued for parking violations.

The system of administrative penalties incorporates defined options for the person against whom an administrative penalty is imposed to exercise, including an ability to request an extension of time for payment of an administrative Penalty Notice.

### **Purpose**

To provide a policy to respond to a Person's request for an extension of time to request a review of a Penalty Notice by a Screening Officer or a Screening Decision by a Hearing Officer.

In accordance with Ontario Regulation 333/07, the Town must provide a process for a Person to request an extension of time to request a Screening Review or a Hearing Review.

### **Scope**

The Person has a time-limited right to request a review of the administrative penalty by a Screening Officer.



Within 15 days of the date of the Penalty Notice the Person will have the option to:

- 1) make a voluntary payment; or
- 2) request a review of the administrative penalty by a Screening Officer.

Mitigating or Extenuating Circumstances means situations that do not provide an excuse or justify the infraction, but which in fairness and mercy may be considered as reducing the degree of responsibility. These are very special circumstances, and if proven that the existence of such special circumstances warrants a reduction of the Penalty Notice, the Screening Officer may take this into consideration when adjudicating the matter. These are also circumstances that render a contravention less serious and may lessen the degree of responsibility. The Person claiming mitigating or extenuating circumstances shall provide proof of their claim with oral evidence and at times may require to show documented proof, if available.

This Policy applies to Screening Reviews and Hearing Reviews conducted by a Screening Officer or Hearing Officer, in accordance with the Town's APS By-law.

### **Screening Review**

- (a) Within 15 days of receipt of the Penalty Notice the Person will have the option to:
- (i) make a voluntary payment; or
  - (ii) request a review of the Penalty Notice by a Screening Officer.

(b) A Person has 15 days to request a Screening Review with a Screening Officer to dispute their Penalty Notice. If the Person has not requested a Screening Review of their Penalty Notice on or before the 15th day after the Penalty Notice was issued, they may request an extension of time to request a Screening Review. The Person shall make this request no later than 30 days after the issued date on the Penalty Notice.

### **Granting a Request for an Extension of Time to Request a Screening Review**

- (a) The request may be granted if the Person requesting the extension demonstrates the existence of Mitigating or Extenuating Circumstances that prevented them from requesting a Screening Review within the original 15 day timeframe set out on the Penalty Notice.



(b) A Person may provide supporting written documentation and other information to the Director of Legal & Legislative Services or designate to justify the Mitigating or Extenuating Circumstances.

(c) The decision to grant the request for a Screening Review will be at the sole discretion of the Director of Legal & Legislative Services or designate and will be made in accordance with the Director of Legal & Legislative Services or designate Guide to Granting a Request for an Extension of Time to request a Screening Review.

### **Hearing Review**

(a) Following the receipt of a Screening Decision the person will have the option to:

- (i) pay the total amount due listed on the Screening Decision; or
- (ii) request a review of the Screening Decision by a Hearing Officer

(b) If a Person would like to request a Hearing Review of the Screening Decision, they must do so on or before the payment due date listed on their Screening Decision. If the person has not requested a Hearing Review of their Screening Decision on or before the payment due date listed on their Screening Decision, they may request an extension of time to request a Hearing Review. The Person may request an extension of time to request a Hearing Review no later than 15 days after the date the Screening Decision letter was issued.

### **Granting a Request for an Extension of Time to Request a Hearing Review**

(a) The request may be granted if the person requesting the extension demonstrates the existence of Mitigating or Extenuating Circumstances that prevented them from requesting a Hearing Review on or before the payment due date on the Screening Decision.

(b) A Person may provide supporting written documentation and other information to the Director of Legal & Legislative Services or designate to justify the Mitigating or Extenuating Circumstances.

(c) The decision to grant the request for a Hearing Review will be at the sole discretion of the Director of Legal & Legislative Services or designate and will be made in accordance with the Director of Legal & Legislative Services or designate Guide to Granting a Request for an Extension of Time to request a Hearing Review.





<b>POLICY:</b> Refund Policy	<b>NO. OF PAGES:</b> 2
<b>SECTION:</b> Administrative Penalty System	<b>REVISED:</b>
<b>EFFECTIVE DATE:</b> February 1, 2022	

### **Policy Statement**

The Town of Milton has deployed an Administrative Penalty System (APS) for the administration of the various parking by-laws enforced within the Town.

An administrative penalty is a penalty imposed by By-Law staff on behalf of the Town, upon an offender within the context of an administrative process rather than a judicial process. The penalty, once confirmed is considered a debt owed to the Town.

The system of administrative penalties incorporates defined provisions for the refund of an administrative penalty,

### **Purpose**

To provide a standardized guideline to define what constitutes reasonable incidents that would precipitate a refund of an administrative penalty.

### **Scope**

The individual has an obligation to either pay the prescribed administrative penalty, or request a review of the penalty within 15 days of the date of the Penalty Notice. Circumstances may arise where a payment of an administrative penalty may need to be refunded to the person who made the payment.

The authority to authorize a refund will rest with the Director of Legal and Legislative Services or designate.

### **Situations that could constitute a valid reason for a refund would include**

- Double payment: the penalty has been attempted to be paid twice. This could occur in situations where a person pays the penalty and for whatever reason the penalty is attempted to be paid again. Examples of this may include:



- the driver of a rental car pays the penalty late and the rental car company attempts to pay the penalty again after receiving notice.
  - a driver pays the penalty followed by the owner or other person attempting to pay the penalty again.
  - a person forgets that payment was made and attempts to pay again,
  - a technological issue where the payment confirmation is not received leading to the penalty attempting to being paid again.
- Over payment or payment error: the person pays more than the allotted penalty, requiring the excess to be refunded; or the person pays the penalty immediately, and then prior to the 15-day period, reconsiders and requests a screening which results in a reduction or cancellation of the penalty.
  - Penalty Notice Error: the penalty notice was issued in error and the payment was made prior to the notice being cancelled. Examples of this include:
    - A fatal error on the face of the ticket including, wrong plate, offence date; location; make of vehicle or listed offence.
    - A notice issued in error including situations where an offence was not committed.
    - A group of notices being cancelled due to unforeseen circumstances, including on street overnight parking or private parking for a particular location after permission had been granted. This would be considered to ensure fairness.

The Licensing & Enforcement Clerk will complete Payment Request Form, including special instructions to notify Legal and Legislative Services once the cheque refund has been issued. The request will be forwarded to the Director of Legal and Legislative Services or designate for approval. Once the approver is satisfied that a refund is required, the request along with the supporting documentation will be forwarded to Accounts Payable.

Accounts Payable will process the refund and notify the Licensing and Enforcement Clerk that the cheque has been mailed

The Licensing & Enforcement Clerk will ensure that the payment reduction or refund is properly corrected in the parking software system.

Unless outlined in this policy, no refund shall be contrary to an amount stipulated in a decision from the Screening or Hearing Officers.