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**Title:** Undue Hardship

**Policy No.** 2025-006

**Adoption:** April 16, 2025 by Council Resolution No. 2025-123

**Subject:** Administrative Monetary Penalty System

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## 1. Introduction

- 1.1. The Township desires 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.

## 2. Purpose

- 2.1. Ontario Regulation 333/07 made under the Municipal Act, 2001 requires a municipality establishing an Administrative Monetary Penalty 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.

- 2.2. The AMPS 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 By-law. It is not intended to provide criteria for establishing undue hardship in respect of other Township programs or services.

### **3. Legislative Authority**

- 3.1. *Municipal Act, 2001* and O. Reg. 333/07

### **4. Policy Scope**

- 4.1. This Policy applies to Screening Officers and Hearing Officers in the conduct of a Screening Review and a Hearing Review, respectively, pursuant to the Administrative Penalty By-law.

### **5. Definitions**

- 5.1. **“Administrative Fee”** means any fee specified in the Administrative Monetary Penalty System By-law;
- 5.2. **“Administrative Penalty”** means an administrative penalty established by the Administrative Monetary Penalty System By-law for a contravention of a Designated By-law as defined therein;
- 5.3. **“Administrative Monetary Penalty System By-law”** means the by-law passed by the Township to establish administrative monetary penalties as amended from time to time, or any successor thereof;
- 5.4. **“AMPS”** means Administrative Monetary Penalty System;
- 5.5. **“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;
- 5.6. **“Hearing Officer”** means any person who is appointed by the Township, 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 Monetary Penalty System By-law;
- 5.7. **“Hearing Decision”** means a notice which contains the decision of a Hearing Officer, as set out in the Administrative Monetary Penalty System By-law;
- 5.8. **“Hearing Review”** means the process related to review of a screening decision, as set out in the Administrative Monetary Penalty System By-law;

- 5.9. **“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;
- 5.10. **“Penalty Notice”** means a penalty notice as described in the Administrative Monetary Penalty System By-law;
- 5.11. **“Person”** includes an individual or a corporation;
- 5.12. **“Records Retention By-law”** means the By-law passed by the Township providing for the classification retention and disposition of records in the Township of Puslinch, as amended from time to time, or any successor thereof;
- 5.13. **“Screening Review”** means the process related to review of a Penalty Notice, as set out in the Administrative Monetary Penalty System By-law;
- 5.14. **“Screening Decision”** means a notice which contains the decision of a Screening Officer, as set out in the Administrative Monetary Penalty System By-law;
- 5.15. **“Screening Officer”** means any person appointed by the Township 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 Monetary Penalty System By-law;
- 5.16. **“Township”** means The Corporation of the Township of Puslinch;
- 5.17. **“Undue Hardship”** means financial hardship, or other extenuating circumstances based on compassionate grounds.

## **6. Process**

- 6.1. In accordance with the Administrative Monetary Penalty System By-law, a Screening Officer or Hearing Officer:
- 6.1.1. 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,
  - 6.1.2. 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.

## **7. Documentation to support Financial Hardship**

7.1. A Person who wishes to seek relief pursuant to the Administrative Monetary Penalty System By-law on the basis of 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:

7.1.1. Income Tax Statement to be considered in relation to Statistics Canada Low Income Cut-offs

7.1.2. Old Age Security;

7.1.3. Canada Pension;

7.1.4. Guaranteed Income Supplement;

7.1.5. Disability Pension;

7.1.6. Ontario Student Assistance Program; or

7.1.7. Any other form of social assistance.

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

## **8. Records Retention**

8.1. All information and documentation provided in support of financial hardship shall be treated in a confidential manner, in accordance with the Municipal Freedom of Information and Protection of Privacy Act. 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 Township's Records Retention By-law.

## **9. Compliance**

9.1. In cases of Policy violation, the Township may investigate and determine appropriate corrective action accordingly.

## **10. Policy Communication**

10.1. This Policy will be posted on the Township's website.

10.2. Affected staff will be advised of the Policy and any major amendments.

10.3. This Policy shall form part of the orientation for all Screening Officers, Hearing Officers and AMPS enforcement and administration employees.

10.4. Without limiting Section 10.3. all current and new employees, with the potential for interaction with the AMPS program, shall receive training in relation to this Policy.