


SCHEDULE H

	<h1 style="margin: 0;">POLICY</h1>	<p><u>Policy No:</u> Click here to enter text.</p>
<p><u>Policy Title:</u> Preventing Political Interference in Relation to the Administration of the Administrative Monetary Penalty System</p> <p><u>Policy Type:</u> COUNCIL</p> <p><u>Category:</u> Governance</p> <p><u>Sub-Category:</u> Council</p> <p><u>Author:</u> Gloria MacNeil</p> <p><u>Dept/Div:</u> CSD – By-law Enforcement</p>	<p><u>Approval Date:</u> Click here to enter a date.</p> <p><u>Reviewed Date:</u> Click here to enter text.</p> <p><u>Next Review Date:</u> Click here to enter text.</p> <p><u>Reviewed Date:</u> Click here to enter text.</p> <p><u>Last Amended:</u> Click here to enter a date.</p> <p><u>Replaces:</u> Click here to enter text.</p> <p><u>Repealed:</u> Click here to enter a date.</p> <p><u>Replaced by:</u> Click here to enter text.</p>	
<p><u>Related Policies, Procedures and/or Guidelines:</u> <i>Municipal Act, 2001</i> O. Reg. 333/07 Administrative Penalty By-law Parking Administrative Penalty By-law Screening and Hearing Officer By-law Code of Conduct for Members of Council</p>		

1. POLICY PURPOSE:

Ontario Regulation 333/07 made under the *Municipal Act, 2001* requires a municipality establishing an Administrative Monetary Penalty System (AMPS) to have a policy for the prevention of political interference in AMPS.

This Policy is intended to address this requirement, to define what constitutes political interference in relation to AMPS, and to ensure that the responsibilities of individuals involved in AMPS are conducted in accordance with the principles of fundamental justice, which include decision making and procedural independence, fairness, impartiality and integrity, without any political interference.

This Policy is not intended to prevent or limit the ability of Members of Council to request information about the AMPS program in general, or its implications for the City, in relation to the business of Council.

Policy No:

Policy Title:

2. **DEFINITIONS:**

“Administrative Penalty” means an administrative penalty established by the Administrative Penalty By-law or the Parking Administrative Penalty By-law for a contravention of a Designated By-law as defined therein;

“Administrative Penalty By-law” means By-law No. 2024-01 of the City, as amended from time to time, or any successor thereof;

“AMPS” means Administrative Monetary Penalty System, established by the Parking Administrative Penalty By-law or the Administrative Penalty By-law

“City” means The Corporation of the City of Kitchener;

“Council Code of Conduct” means the Code of Conduct for Members of Council adopted by the City to govern the conduct of Members of Council, as amended from time to time, or any successor thereof;

“Council” means the Council of the City;

“Director of By-law Enforcement” means the Director of By-law Enforcement of the City or his or her designate;

“Hearing Officer” means any person appointed by the City 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, the Administrative Penalty By-law or the Parking Administrative Penalty By-law;

“Hearing Review” means the process related to review of a screening decision, as set out in section 6.0 of the Parking Administrative Penalty By-law;

“Parking Administrative Penalty By-law” means By-law No. 2019-039 of the City, as amended from time to time, or any successor thereof;

“Penalty Notice” means a penalty notice as described in Section 3.0 of the Administrative Penalty By-law and Section 4.0 of the Parking Administrative Penalty By-law;

“Person” includes an individual or a corporation;

“Power of Decision” means a power or right, conferred by or under this By-law and the Parking Administrative Penalty By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any person:

“Reprisal” means any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing, initiating or cooperating in an investigation into an alleged wrongdoing, and includes but is not limited to:

Policy No:

Policy Title:

1. Disciplinary measures;
2. Demotion of the employee or individual;
3. Termination of the employee or individual;
4. Intimidation or harassment of the employee or individual;
5. Any measure that adversely affects the employment or working conditions of the employee or individual; and
6. Directing or counselling someone to commit a reprisal

“Screening and Hearing Officer By-law” means By-law No. 2019-040 of the City, as amended from time to time, or any successor thereof;

“Screening Review” means the process related to review of a Penalty Notice, as set out in Section 5.0 of the Administrative Penalty By-law or Section 5.0 of the Parking Administrative Penalty By-law;

“Screening Officer” means any person appointed by the City 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, the Administrative Penalty By-law or the Parking Administrative Penalty By-law;

3. SCOPE:

This Policy applies to all members of Council, to Hearing Officers and Screening Officers, to City employees involved in the enforcement and administration of AMPS, and to all other City employees in relation to their interaction with AMPS and members of Council.

The following shall apply in addition to this Policy:

- a) For City employees involved in the administration of the AMPS program: all other City policies and procedures applicable to City employees shall continue to apply. In the event of a conflict between the provisions of this Policy and any other City policy or procedure, in relation to AMPS, the provisions of this Policy shall supersede.
- b) For Hearing Officers: the provisions of any agreement governing the retainer between the City and a Hearing Officer(s), shall also apply in regard to the activities of the Hearing Officer. In the event of a conflict between this Policy and the agreement, the provisions of this Policy shall supersede.
- c) For members of Council: the Council Code of Conduct shall also apply in regard to the activities of members of Council. In the event of a conflict between the provisions of this Policy and the provisions of the Council Code of Conduct, in relation to AMPS, this Policy shall supersede.

Policy No:

Policy Title:

This Policy shall apply in addition to all applicable law (i.e. Municipal Conflict of Interest Act, etc.). A breach of applicable law shall be deemed to be a breach of this Policy.

POLICY APPLIES TO THE FOLLOWING:	
<input checked="" type="checkbox"/> All Employees	
<input type="checkbox"/> All Full-Time Employees	<input type="checkbox"/> All Union
<input type="checkbox"/> Management	<input type="checkbox"/> C.U.P.E. 68 Civic
<input type="checkbox"/> Non Union	<input type="checkbox"/> C.U.P.E. 68 Mechanics
<input type="checkbox"/> Temporary	<input type="checkbox"/> C.U.P.E. 791
<input type="checkbox"/> Student	<input type="checkbox"/> I.B.E.W. 636
<input type="checkbox"/> Part-Time Employees	<input type="checkbox"/> K.P.F.F.A.
<input checked="" type="checkbox"/> Specified Positions only:	<input type="checkbox"/> Other:
<input checked="" type="checkbox"/> Council	<input type="checkbox"/> Local Boards & Advisory Committees

4. POLICY CONTENT:

4.1 Principles of Preventing Political Interference

- (a) No Person shall attempt, directly or indirectly, to communicate with any City employee or other person performing duties related to the administration of AMPS for the purpose of influencing or interfering, financially, politically or otherwise, with the administration of AMPS or with any particular Penalty Notice;
- (b) No Person shall attempt, directly or indirectly, to communicate with a Screening Officer or Hearing Officer for the purpose of influencing or interfering, financially, politically or otherwise, the Screening Officer or Hearing Officer respecting a Penalty Notice and/or respecting a Power of Decision in a proceeding that is or will be pending before a Screening Officer or Hearing Officer, except:
 - 1. A Person who is entitled to be heard in the proceeding or the Person's lawyer, licensed paralegal or authorized representative; and
 - 2. Only by that Person or the Person's lawyer, licensed paralegal or authorized representative during the hearing of the proceeding in which the issues arises.

This paragraph shall not prohibit the giving of receiving of legal advice.

In addition to this Policy, the AMPS By-law sets out a prohibition on attempting to influence a Screening Officer or Hearing Officer and creates an offence for any contravention of the provisions of the By-law. Such penalty is in addition to any action taken pursuant to this Policy.

Policy No:

Policy Title:

- (c) All individuals involved with the enforcement and administrative functions of AMPS shall carry out such duties in a manner which upholds the integrity of the administration of justice

4.2 Accountability

- (a) A Screening Officer or Hearing Officer, City employee or any other individual performing duties related to AMPS shall report any attempt at influence or interference, financial, political or otherwise, by any Person, to the Director of By-law Enforcement as soon as possible. No action shall be taken against the Screening Officer, Hearing Officer, employee or other person(s) for making any such report in good faith;
- (b) Where any employee, Screening Officer, Hearing Officer or other person performing duties related to AMPS, is contacted by a member of Council or City official with respect to the administration of AMPS or a specific Penalty Notice, he or she shall immediately disclose such contact to the Director of By-law Enforcement in order to maintain the integrity of AMPS
- (c) Any interference with or attempt to interfere with AMPS by any Person may result in charges under the Criminal Code of Canada, as applicable, or any other applicable law, in addition to any disciplinary action; and
- (d) Any interference with AMPS or attempt to interfere with AMPS, by a member of Council, will be addressed pursuant to the Council Code of Conduct

4.3 Reprisal

In addition to and without limiting 4.2(a), no person shall take any Reprisal against a City employee or other individual performing duties related to the administration of the AMPS because the employee or individual, in good faith:

1. Has sought information or advice about making a disclosure about wrongdoing contrary to this policy;
2. Has made a disclosure about wrongdoing contrary to this policy in good faith;
3. Has initiated or cooperated in an investigation or other process related to a disclosure of wrongdoing contrary to this policy;
4. Has appeared as a witness, given evidence or participated in any proceeding relating to the wrongdoing contrary to this policy, or is required to do so;
5. Has alleged or reported a Reprisal; or
6. Is suspected or any of the above actions

The identity of employees or other individuals performing duties related to the administration of AMPS involved in an investigation, including the identity of an

Policy No:

Policy Title:

individual alleging political influence contrary to this policy, will be protected to the fullest extent possible.

If an employee believes that he or she has suffered Reprisal, this should be reported immediately to the Director of By-law Enforcement.

COMPLIANCE

4.4 Policy Violation

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

5. HISTORY OF POLICY CHANGES

Administrative Updates

n/a

Formal Amendments

n/a