



**TOWNSHIP OF ESSA
AUTOMATED SPEED ENFORCEMENT
ADMINISTRATIVE PENALTY (ASE AP) PROGRAM
CONFLICT OF INTEREST POLICY**

This Policy has been designed to provide staff in Essa's ASE AP Program with clarity in determining where a conflict exists, in addition to providing for a process to follow where a conflict of interest arises under Essa's ASE AP Program.

1. PURPOSE

- 1.1 To assist staff in Essa's ASE AP Program in determining where a conflict or political interference exists.
- 1.2 To provide staff in Essa's ASE AP Program with a process to follow where a conflict of interest arises under Essa's ASE AP Program.
- 1.3 To endorse the following principles under Essa's ASE AP Program:
 - a) Independence and accountability of Screening and Hearing Officers in the appeal process where a Penalty Order has been imposed under Essa's ASE AP Program, and the contravener is exercising his/her right to appeal.
 - b) Certainty in reconciling the duties of Screening and Hearing Officers during the appeal process where a conflict of interest exists.
 - c) Avoidance of political interference in the decision-making.
 - d) Screening and Hearing Officers are expected to perform their duties with integrity and impartiality in a manner that will bear the closest scrutiny.

2. SCOPE

- 2.1 This Policy applies to all Hearing Officers, Screening Officers, as well as elected members of Council and Township of Essa officials and staff in relation to their interaction with Automated Speed Enforcement Staff.
- 2.2 In regard to members of Council, this Policy should be read and interpreted within the context of prevailing provincial legislation (ie: *Municipal Conflict of Interest Act*) and the Council Code of Conduct, including its related policies, procedures and guidelines.

3. POLICY

3.1 DEFINITIONS

In this policy, the following definitions apply:

- a) "Child" means a child born within or outside marriage including an adopted child and a person whom another person has demonstrated a settled intention to treat as a child of the other person's family.

- b) “*Hearing Officer*” means the prescribed person(s) appointed by the municipality to review penalty orders, as described in subsection 10(3) of the Ontario Regulation 355/22.
- c) “*Municipality*” means the municipality in which the contravention that is the subject of a penalty order occurred, per subsection 10(1) of the Ontario Regulation 355/22.
- d) “*Parent*” means a person who has demonstrated a settled intention to treat a child as a member of the person’s family whether or not that person is the natural parent of the child.
- e) “*Regulation*” means Ontario Regulation 355/22, Administrative Penalties for Contraventions Detected Using Camera Systems under the *Highway Traffic Act*, R.S.O. 1990, c. H.8 as from time to time amended.
- f) “*Screening Officer*” means the prescribed person(s) employed by the municipality to review penalty orders, per subsection 10(2) of Ontario Regulation 355/22.
- g) “*Spouse*” means the person to whom a person is married or with whom the person is living in a conjugal relationship outside of marriage.

3.2 SCREENING OFFICERS

- 3.2.1 In accordance with subsection 10(2) of the Regulation, a Screening Officer is prescribed under subsection 21.1(7) of the *Highway Traffic Act* for the purpose of conducting an appeal under the Regulation.
- 3.2.2 In accordance with the Regulation, where a municipality has established an ASE AP Program, Screening Officers are required to be employed by the municipality.
- 3.2.3 Under Essa’s ASE AP Program, where an appeal has been filed, the Screening Officer is the first stage of the appeal process, and is responsible to review penalty orders that were imposed under the municipality’s ASE AP Program in an independent manner, free from bias and/or political persuasion, and to make a decision as to confirm, vary or set aside the penalty order that was imposed on the registered owner.

3.3 HEARING OFFICERS

- 3.3.1 In accordance with subsection 10(3) of the Regulation, a Hearing Officer is prescribed under subsection 21.1(7) of the *Highway Traffic Act* for the purpose of conducting an appeal under the Regulation.

- 3.3.2 In accordance with subsection 10(3) the Regulation, where a municipality has established an ASE AP Program, Hearing Officers are not employees of the municipality, but rather, are appointed by the municipality to review the decision of the Screening Officer in an independent, arms-length manner free from bias and/or persuasion, and to make a decision as to confirm, vary or set aside the penalty order. The Hearing Officer is the second and final stage in the appeal process for the municipality's ASE AP Program, and their decision is final.
- 3.3.3 In an effort to mitigate any conflict of interest and/or political interference when conducting a review of penalty orders imposed under Essa's ASE AP Program, the following persons are not eligible for appointment as a Hearing Officer:
- a) an employee of the municipality;
 - b) a member of the municipality's council;
 - c) the child of a person referenced in paragraphs a) or b);
 - d) the parent of a person referenced in paragraphs a) or b);
 - e) the spouse of a person referenced in paragraphs a) or b); or
 - f) a person indebted to the municipality other than:
 - i. in respect of current real property taxes; or
 - ii. pursuant to an agreement with the municipality with which the person is complying.

3.4 RESPONSIBILITIES

- 3.4.1 Screening and Hearing Officers must ensure that each review or hearing, as applicable, is carried out in a manner that is fair, dispassionate and moderate, consistent with the public interest, and independent of political or other external influences.
- 3.4.2 Screening and Hearing Officers must neither act nor be directly or indirectly involved as an agent for any contravener in respect of any matter that is involving or that could otherwise involve that Screening or Hearing Officer in the performance of the role.
- 3.4.3 Screening and Hearing Officers must disclose to the Manager of Legislative Services any attempt at improper influence on their decision-making, or interference by any member of Council or member of staff, financial, political or otherwise, respecting performance of their role including any prohibited contact described in section 7.
- 3.4.4 Screening and Hearing Officers must disclose to the Manager of Legislative Services any actual or reasonably perceived conflict of interest as soon as possible.

3.5 PROCESS

- 3.5.1 Upon being advised of a conflict of interest by a Screening Officer at the first stage of the appeal process, the Penalty Order shall be deemed to be affirmed, and will be automatically sent for a review by the Hearing Officer, with a final decision being made to affirm, vary or set aside the penalty order.
- 3.5.2 Upon being advised of a conflict of interest by a Hearing Officer at any stage of the appeal process, the Hearing Officer who has the conflict shall not participate in any review on the matter where the conflict exists; rather, the matter shall be assigned to a Hearing Officer who is not in a position of conflict to conduct a review of the penalty order and/or decision of the Screening Officer.
- 3.5.3 In the event the contravener appealing the decision is employed in the administration of the Administrative Penalty System, the matter shall be referred to the Hearing Officer(s), to review the penalty order and provide a detailed decision confirming, varying, or setting aside the penalty order. The decision shall be delivered to the contravener in accordance with the Regulation.
- 3.5.4 The Manager of Legislative Services must report to the Municipal council the particulars of any disclosure made pursuant to sections 5.3 and 7.2.

3.6 GENERAL

- 3.6.1 Screening and Hearing Officers must not accept a fee, gift or personal benefit that is related directly or indirectly with the performance of the Adjudicator's role, except compensation authorized by law.
- 3.6.2 A member of the Township of Essa's Council must not contact the Screening or Hearing Officer respecting a matter related to the performance of their role except only to the extent that the member may be a party to a matter before the Screening or Hearing Officer and except only to the extent that a party would communicate with the Screening or Hearing Officer during the review or the hearing, as applicable.
- 3.6.3 Screening and Hearing Officers must not use any information obtained while performing their duties to further, or seek to further, their own financial, political, or personal interest.
- 3.6.4 No action may be taken against a Screening Officer, Hearing Officer or the Manager of Legislative Services, as the case may be, who discloses or reports in good faith pursuant to sections 5.3, 5.4 and 6.4.

3.7 CONFIDENTIALITY

- 3.7.1 Screening and Hearing Officers must not disclose information that is gained in the performance of their role and that is not available to the public, except in accordance with law.

Cross References

Municipal Act, 2001, as amended
Highway Traffic Act
Ontario Regulation 355/22 (ASE Administrative Penalties)
Township of Essa ASE AP By-law 2024-18
Council Code of Conduct
Council Conflict of Interest

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