

COMMUNICATION 136011

Received from Stacey Blair, Clerk
Addressed to Committee of the Whole
Date February 18, 2025
Topic Administrative Monetary Penalties

SUMMARY

Municipalities face significant challenges in ensuring by-law compliance while balancing judicial resources and municipal budgets. Administrative Monetary Penalties (AMPs) provide a modern solution by allowing direct municipal oversight of minor by-law infractions. This approach accelerates the resolution process and enhances local governance autonomy. Currently, the Town of Carleton Place uses the Provincial Offences Act (POA) system to prosecute parking and other municipal by-law violations. The POA identifies three (3) types of violations:

- Part I: Minor offences
- Part II: Parking offences
- Part III: Serious violations

Under the POA system, the Perth Courthouse processes, manages, and prosecutes most aspects of these violations. The Town processes Part II violations until they go to court.

AMPs offer a municipal alternative to the provincial court system for administering and adjudicating by-law offences. When a Municipal Law Enforcement Officer issues a Penalty Notice for a by-law violation under an AMP, the penalty becomes a balance due to the municipality. The defendant can either pay the penalty or contest it through a screening review with a Screening Officer. If the defendant disagrees with the Screening Officer's decision, they can appeal to a Hearing Officer, whose decision is final and binding.

AMPs provide municipalities with control over timelines as they operate outside the POA. Since AMPs do not include court hearings, mandatory policies ensure the hearing process is fair and in accordance with natural justice principles which dictate that administrative proceedings should be conducted in a manner that is fair to the parties involved. AMP systems have been upheld by the courts and are used by several municipalities in the region (Kingston, Peterborough, Mississippi Mills, North Grenville).

DISCUSSION

Legislative Framework

The Municipal Act 2001, S.O. 2001, Section 434.1 (the Act) and Ontario Regulations 333/07 and 149/15 allow municipalities to require a person to pay an administrative penalty for by-law non-compliance. The Act states that the purpose of AMPs is to promote compliance with by-laws and that they shall not be punitive or exceed the amount reasonably required to promote compliance. AMPs can only be used for by-laws authorized by the Act and not for matters under the Planning Act RSO 1990 c P13.

Administration

Adopting an AMP by-law does not preclude the Town from issuing fines under the POA; it

provides an alternative to encourage by-law adherence. If a person is required to pay an AMP, they cannot also be charged with an offence for the same by-law contravention. An AMP by-law allows Municipal Law Enforcement Officers to apply an AMP to a designated offence or issue a POA ticket. An AMP is provided as a notice with a prescribed payment date.

AMPs can be used for the same offences as existing fines or other by-law infractions without established set fines. Once enacted by Council, the AMP By-law comes into force on the chosen date. Under the POA framework, set fines for Town by-laws must be approved by the Attorney General's Office and the local Superior Court Justice's Office before issuance. If disputed, POA fines go before the courts, requiring the attendance of the issuing officer. Unlike POA-based fines, AMPs are administered by the municipality and do not involve the courts. An AMP By-law enables set penalties recommended by staff and approved by Council without requiring approval from the Attorney General's Office. AMPs allow municipalities to impose penalties for by-law infractions even without previously established short form wording or set fines. The AMP By-law itself outlines offences and corresponding penalties. While a financial debt is imposed with AMPs, it is classified as a penalty rather than a fine under the POA system.

Application

AMPs were recently brought before Council during the staff presentation for the new Sign By-law 28-2024 and again for the Backflow Prevention By-law 68-2024. The Sign By-law allows enforcement using AMPs but does not yet have a corresponding penalty schedule. This schedule can be established with the new AMPs By-law. The Backflow Prevention By-law already has a schedule for offences and penalties. Other by-laws can be included in the AMPs By-law as determined by Council and Staff. Providing justification and developing additional AMP schedules will be the responsibility of the respective Department Head wishing to amend the By-law.

Screening & Hearing Officer Appointments

Screening Officers and Hearing Officers must act impartially and are bound by conflict of interest policies. The Screening Officer can be a Town staff member such as the Clerk, or a neutral third party. The Hearing Officer is required to be a neutral third party. Similar to the role of Integrity Commissioner, a Hearing Officer can be shared with other municipalities for cost efficiency. Regardless of who is appointed to each role, the Screening Officer and Hearing Officer cannot be the same person.

Financial Impacts

Implementing AMPs will have both anticipated and unforeseen financial implications. Staff will contract a Hearing Officer for by-law penalty notice appeals. Long-term savings are expected by implementing AMPs versus traditional court processes, which can be costly and time intensive. AMPs create potential cost savings by avoiding court hearings and applying penalties to tax rolls where possible. Revenues from AMPs and associated fees are 100% retained by the Town. Payment timelines and additional penalties, such as late or appeal fees, will be outlined in the By-law. Unpaid penalties are added to the guilty party's tax roll where possible. This system is not subject to court backlogs and does not require court attendance. In cases where the guilty party does not own property in Carleton Place, unpaid penalties

would be sent to a collection agency. An example of where this can happen is with parking tickets.

Implementation Plan

1. Council Approval in Principle – Council to provide direction to proceed with the drafting of an AMP by-law.
2. Drafting of By-Law & Policies – Develop an AMP By-law outlining eligible offences, penalty amounts, and procedural requirements, including the appointment of Screening and Hearing Officers. Required policies include:
 - Prevention of political interference
 - Conflict of interest management
 - Financial management and reporting
 - Public complaint procedures
 - Consideration of undue hardship
3. Adoption of Procedures – Develop detailed procedures for issuing AMPs, processing appeals and collecting unpaid penalties.
4. Public Communication – Provide information about the new system via the CP Scoop and the Town's website, including FAQs.
5. Initial Rollout – Municipal Law Enforcement Officers could initially issue warnings to familiarize the Town with the AMP system.

STAFF RECOMMENDATION

THAT Council direct the Clerk to proceed with the drafting of an Administrative Monetary Penalties By-law for further consideration.

ATTACHMENTS

1. AMP Flow Chart