



## Staff Report C2024-11

Committee 2024-12-16

Council 2025-01-13

Amendments

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**Submitted To:** Committee of the Whole | Council  
**Submitted By:** Sara Almas, Director of Legislative Services/Clerk  
**Prepared By:** Adam Harrod, (A)Manager By-law Services  
Hannah Rockbrune, Coordinator, By-law Services  
**Subject:** Implementation of Administrative Monetary Penalty System

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### Recommendation

**THAT** Staff Report C2024-10, Administrative Monetary Penalty System (AMPS) By-law, be received;

**AND THAT** Council enact the Administrative Monetary Penalty System By-law, attached in Appendix 1; and,

**AND THAT** Council enact the Screening and Hearing Officer By-law, attached in Appendix 2.

### Amendments

None.

## 1. Executive Summary

In October 2023, the Town of Collingwood Council endorsed the initiation of work necessary to implement an Administrative Monetary Penalty System (AMPS), marking a significant step towards enhancing the efficiency of by-law enforcement and compliance. The AMPS offers a strategic alternative to the existing Provincial Offences Act (POA) system, presenting several distinctive benefits as outlined in report C2023-22:

- **Revenue Retention:** Ensures that all fines remain within the Town rather than supporting programs and services outside of the Town.
- **Faster Resolution:** Streamlines administrative processes, reducing the time and resources required to resolve by-law contraventions.
- **Encouraging Compliance:** Focuses on positive resident engagement to promote adherence with Town by-laws.
- **Cost Efficiency:** Reduces reliance on external prosecutions, thereby lowering related costs.
- **Streamlined Enforcement:** Offers a more efficient and accessible solution compared to the traditional court system, which also helps alleviate court congestion.

Implementing an AMPS in Collingwood requires enacting a by-law establishing a system of administrative penalties as required by O. Reg. 333/07: Administrative Penalties. This by-law will detail the entire process from issuing penalties to final resolution, including screening reviews, hearings, and specification of which by-laws are subject to AMPS. Initially, the focus will be on select by-laws such as Licensing, Noise, Property Standards, and Animal Control, with potential future expansions. Excluded for now are parking and stopping offences, with the possibility of future inclusion.

To foster by-law compliance, the system will implement escalating penalties for repeat offenders to deter recurrent contraventions. These penalties cannot be punitive but are intended to encourage compliance; if necessary, the Town will default to the Provincial Offences Act for persistent non-compliance. Transparency and fairness are integral to the process, with designated Screening and Hearing Officers managing dispute resolution, supported by mandatory policies that must be created when establishing a system of administrative penalties. These policies prevent political interference, address conflicts of interest, ensure financial transparency, and provide a framework for handling public complaints related to system administration.

Further, the service shifts our approach to one that is resident-focused, emphasizing compliance over punishment. This paradigm shift encourages a positive relationship with our community, fostering a cooperative environment for addressing by-law contraventions. Additionally, the reliance on external legal resources is minimized, reducing costs associated with prosecutions and allowing the Town to channel savings into other crucial areas.

## 2. Analysis

### Background

The introduction of an AMPS is designed to alleviate the pressure on overburdened courts by providing municipalities with a more efficient means of responding to by-law contraventions. By reducing congestion in the provincial court system, an AMPS enables better allocation of court time and resources to more serious matters.

The Provincial Offences Act is currently used by the Town of Collingwood to prosecute parking and other by-law violations. The POA was enacted in 1979 as a procedural code to govern the prosecution of regulatory offences (non-criminal offences) created by provincial laws and municipal by-laws. The POA is designed to identify three types of violations:

- Part I, which governs minor offences;
- Part II, which deals with parking offences; and
- Part III, which is for serious violations.

An AMPS is a tool designed to promote by-law compliance and offers an efficient dispute resolution process as an alternative to the traditional Provincial Offences Act (POA) system.

Under the structure of Administrative Penalties, when an enforcement officer issues a penalty notice to an individual or vehicle in violation of the Town's by-law, the penalty

becomes a balance owed to the municipality. Upon receiving the penalty notice, the recipient has two options: to pay the penalty or to contest it through a screening review with a Screening Officer. If the outcome of the screening review is unsatisfactory, the individual may appeal the decision of the Screening Officer to a Hearing Officer for further consideration. The decision made by the Hearing Officer is final and binding, meaning it cannot be further disputed.

An AMPS provides the municipality with greater control over the timeline for resolving by-law contraventions, as it eliminates delays caused by the backlogged provincial court system and certain legal arguments (e.g., the constitutional applicability of a by-law). Since administrative penalties are imposed without the need for a court trial, safeguards are in place to ensure the fairness and integrity of the process, including policies to prevent conflicts of interest and political interference. These measures ensure that penalties are applied in accordance with the principles of natural justice. Furthermore, an AMPS has been upheld by the courts as an appropriate mechanism for addressing matters under provincial jurisdiction.

### **AMPS By-law Enactment**

Legislation requires that municipalities enact a comprehensive by-law outlining the various elements of the resolution process, from the issuance of a penalty notice to its final resolution. The AMPS By-law C2025-XX effectively replaces the administrative processes currently outlined in the POA.

The key components of the proposed by-law include:

- **Issuance of a Penalty Notice:** Specifies the process for issuing a penalty notice for by-law contraventions.
- **Penalty Notice Dispute Process:** Establishes the steps involved in disputing a penalty notice, in alignment with the applicable regulations. This includes the procedures for situations where a person responds—or fails to respond—to the notice.

- **Screening Review Process:** Defines the process for the initial screening of disputes to determine whether a penalty notice should be upheld, amended, or cancelled.
- **Hearing Review Process:** Outlines the formal hearing process for those wishing to contest a penalty notice following the screening review.
- **Document Service:** Specifies the procedures for serving documents to the affected parties, ensuring transparency and proper communication.
- **Response Timelines:** Sets out the timelines within which individuals must respond to a penalty notice.
- **Designation of By-law Provisions:** Identifies the specific by-law provisions that will be subject to the AMPS and outlines the penalties applicable for each offence.

This by-law is an essential step in transitioning to an AMPS, ensuring a clear, structured, and efficient process for administering penalties and resolving by-law contraventions in the Town of Collingwood.

### **Designated By-laws and Amendments**

Staff are recommending designating the following by-laws for inclusion under the AMPS framework:

- Property Standards (Amendment to be brought forward)
- Short Term Accommodation Licensing (Incorporated into the By-law)
- Animal Control (Amendment to be brought forward)
- Noise (Amendment to be brought forward)
- Highway Maintenance (Incorporated into the draft By-law)

Some of these by-laws will need to be amended to specify that penalties may also be enforced and imposed through the AMPS, or through the POA process if that is more desirable. These amendments will take effect upon the commencement of the Town's AMPS or shortly thereafter. Any tickets issued before this transition will continue to be adjudicated under the existing POA system until their resolution.

Looking ahead, staff anticipate expansion of the Town's AMPS to include additional regulatory by-laws, once the system has been tested and is fully operational. We currently offer a first appearance approach for parking tickets wherein certain enforcement and customer service staff have the ability to cancel or reduce ticket fines if warranted. Once the Town's AMPS is implemented and if deemed desirable, we may amend the parking by-law to also provide for AMPS. However, if AMPS is applied to parking tickets then the POA system cannot be used at any time, and therefore is no longer an option.

### **Penalties**

Under the current POA system, municipalities must seek approval from the Ministry of the Attorney General (MAG) to introduce new fines or revise existing ones. However, under the AMPS, this requirement is removed.

To further encourage compliance, escalating penalties will be introduced for repeat offenders under the AMPS. These escalating penalties are designed to deter continued violations by increasing the fine amount when the same individual or business commits the same offence multiple times. The aim is to motivate a prompt change in behaviour, particularly for repeat offenders.

Escalating penalties have been successfully implemented in other jurisdictions, including the cities of London and Oshawa, for both parking and non-parking infractions. In these cities, fine amounts escalate by 50% for each subsequent violation of the same by-law within a given period.

### **Appointment of Screening and Hearing Officers**

The role of Screening and Hearing Officers is integral to the effective operation of an AMPS. These officers will be responsible for ensuring a fair and transparent system for disputing penalty notices and resolving disputes related to the contravention(s).

O. Reg. 333/07 made under the *Municipal Act, 2001*, requires that any AMPS include a formalized two-step resolution process for individuals wishing to dispute penalty notices. These steps are known as screening and hearings.

A by-law is needed to define the roles of Screening Officer and Hearing Officer, as well as to outline the appointment process for these positions. Staff will serve as Screening Officers, while Hearing Officers will be appointed by the Council following staff recruitment efforts and based on the Director's recommendations in accordance with the policy and in consultation with the Town's Manager of By-law Services.

Officer Appointments:

- **Screening Officers:** As indicated above, current staff members will be appointed as Screening Officers. These officers will review penalty notices issued by enforcement staff and may affirm, cancel, reduce or extend the time for payment of the administrative penalty, including any applicable administrative fee(s), on certain specified grounds.
- **Hearing Officer:** A separate, impartial Hearing Officer will be retained to handle appeals from the Screening Officer's decisions. This ensures an independent and unbiased review process. The Hearing Officer's decision is final.

**Limitations of Authority:** Neither a screening officer nor a hearing officer has jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

### **Policies and Procedures**

In addition to the required AMPS by-law and amendments to existing by-laws O. Reg. 333/07 made under the *Municipal Act, 2001*, requires that municipalities develop standards for administering the system of administrative penalties. These standards must include the following:

- Policies and procedures to prevent political interference in the administration of the system.

- Guidelines defining what constitutes a conflict of interest in relation to the system, and measures to address such conflicts should they arise.
- Policies and procedures regarding financial management and reporting.
- Procedures for filing and processing complaints made by the public regarding the administration of the system.
- Procedures to allow a person to obtain an extension of time in which to request a review by a screening officer, or a review by a hearing officer.
- Procedures to permit persons to obtain an extension of time for payment of the penalty.

### **Delegated Authority**

A key condition for delegating authority is Council's determination that the powers being delegated are of a 'minor nature'. This assessment should consider factors such as the number of individuals affected, the geographic area involved, the time frame, and any other relevant elements. It is important to note that certain by-laws, particularly those related to zoning, tax, MCF, and small business counseling, can only be created or amended by Council and not by the Clerk.

To streamline administrative processes deemed minor in nature, the Director of Legislative Services will be granted the authority to establish and update administrative policies, practices, and procedures necessary for implementing the AMPS By-law. This includes the ability to amend any schedules associated with the By-law.

Additionally, the Director will have the authority to set penalty amounts for by-law contraventions. As outlined in O. Reg. 333/07, these amounts must not be punitive and are restricted by what is reasonably required to promote compliance. Again, this delegation would be considered minor in nature.

The proposed delegations are detailed within the draft AMPS By-law. To ensure that the list of delegations remains consolidated and adheres to the provisions of the Delegated Authority By-law, a provision to amend By-law 2020-059 has been included.



### **Next Steps: Timeline and Implementation**

The following steps will be taken to implement the Town's AMPS:

- **Policies & Forms:** The Director with help from the Manager of By-law will finalize all AMPS related policies as outlined in O. Reg. 333/07 as well as required forms (e.g., request for screening review)
- **Communications Plan:** Update the website and public materials to inform residents and businesses about the changes.
- **Recruitment:** Begin the recruitment process for an independent Hearing Officer.
- **Training:** Staff training on the new processes and procedures for handling AMPS-related matters.

### **Financial Impacts**

The initial setup costs for the Town's AMPS is projected to range between \$7,500 and \$12,500. These expenses have been accounted for within the approved 2024 operating budget, with costs expected to be offset by anticipated revenue from penalty notices and associated fees, such as those for failure to appear at a hearing, as established by the Town.

There is an expected increase in annual operating expenses, specifically related to compensation for independent Hearing Officers. Based on current projections, staff estimate that the cost for contracting a Hearing Officer will range from \$5,000 to \$7,500 annually but will depend on a number of factors, including the number of penalty notices being issued and the number of hearing requests. This estimate is derived from the current rates for Hearing Officers in other municipalities, assuming one day of work per month. It is also anticipated that the increased revenue for penalties will offset these costs.

Below is a breakdown of the projected costs:

<b>Hearing Officer Fee:</b>	\$2,500 - \$5,000 per year
<b>Ticket/Notice Replacement:</b>	\$2,500
<b>Legal Fees:</b>	\$2,500 - \$5,000 (one-time cost)

As noted in Report C2023-22, the Town's staff will manage the role of the Screening Officer through the newly established By-law Coordinator position, which was filled in May 2024.

As noted, there is also the opportunity for full revenue retention as by-law fines issued through the POA system, include a deduction that is taken from the revenue the municipality would receive. For example, with a POA by-law fine of \$240, the Town would receive \$200, while \$35 is allocated to victims of crime and \$5 is retained by the courts. Additionally, certain fines collected by the courts, and are shared amongst municipalities within the court jurisdiction.

### **Conclusion**

Implementing the Administrative Monetary Penalty System (AMPS) is a strategic move for the Town, ensuring all fines collected are retained locally and enhancing fiscal management. This system reduces administrative burdens, enabling quicker issue resolutions and allowing staff to reallocate resources for improved service delivery.

By emphasizing compliance over punishment, an AMPS fosters a positive relationship with residents, encouraging by-law adherence. Reduced reliance on external prosecution costs, allows these funds to be better utilized in other essential areas.

The streamlined enforcement process with an AMPS offers an accessible alternative to the traditional court system, enhancing efficiency and transparency. This contemporary approach supports operational effectiveness, strengthens financial stability, and reaffirms the Town's commitment to innovation and community well-being. Further

evaluation of AMPS implementations in other municipalities could guide future adjustments post-implementation.

### 3. Input from Other Sources

- Legal Review of the Draft By-law & Policies, Miller Thomson LLP
- Municipal Law Enforcement Officers Association (MLEOA) Best Practices/Templates
- Jurisdictional scan of other municipal AMPS by-laws and policies
- Reviewed and endorsed by Departments to proceed to Committee of the Whole, on December 3, 2024

### 4. Applicable Policy or Legislation

Community Based Strategic Plan – Pillar #4 Responsible

Goal: Continuously drive operational and organizational excellence

Although there is not a specific ‘Key Action’ defined under this Goal pertaining to AMPS, it does demonstrate to use the use of technology and utilization of legislative opportunities to “support better and more efficient services.”

Bill 130, the *Municipal Statute Law Amendment Act, 2006* came into effect on January 1, 2007, which permitted municipalities to establish a system of Administrative Penalties for parking offences.

On May 30, 2017, Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2016* received Royal Assent. Among its amendments was the addition of a new section 434.1 to the *Municipal Act, 2001* expressly authorizing municipalities to establish an AMPS for failure to comply with any by-law passed under the *Municipal Act, 2001*.

On December 14, 2017, Bill 177, *Stronger, Fairer Ontario Act (Budget Measures), 2017* received Royal Assent. It included amendments to the Building Code Act, 1992

(Building Code Act) to establish AMPS for the enforcement of property standards by-laws and property standards order.

## 5. Considerations

2024-2028 Community Based Strategic Plan: [Choose an item.](#)

Sustainable  Connected  Vibrant  Responsible

Services adjusted if any Municipal Law Enforcement

Climate Change / Sustainability: Not Applicable

Communication / Engagement: Advertisement/Notice will be provided

Accessibility / Equity, Diversity, Inclusion: Not Applicable

Registered Lobbyist(s) relating to content:

Next steps and future action required following endorsement:

By-law to be posted by Legislative Services staff. Policies catalogued in S Drive.

Director and Manager responsible for the appointment process of Screening and Hearing Officer.

## 6. Appendices and Other Resources

**Appendix A:** AMPS By-law

**Appendix B:** Screening and Hearing Officers By-law

## 7. Approval

### Prepared By:

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### Reviewed By:

Sara Almas, Director of Legislative Services

### CAO Comments:

Endorsed by CAO Skinner on December 10, 2024 to proceed to Council.