

Subject: Administrative Monetary Penalty system

Recommendation:

THAT Committee receive Report #2020-0022 and recommend to Council:

THAT the administrative monetary penalty bylaw be approved and staff be directed to prepare the necessary bylaw for council consideration on March 23, 2020

Background:

Administrative Penalties

Through the enactment of By-law #3505(2014), the system for administrative penalties relating to stopping, standing and parking of vehicles was established. As a result, the Town of Pelham was successful in the implementation of the Administrative Municipal Penalty System (AMPS) for parking-related offences, wherein the system is administered by the municipality and replaces the former Provincial Offences Act (POA) Court system. The result achieved a more efficient and customer-focused process to adjudicate parking penalties and effectively removed the Prosecution of Part II Parking Citations from the Niagara Provincial Offences Courts, placing the responsibility for a review/screening forum at the municipal level. Implementation across Niagara municipalities took effect July 1, 2014.

Administrative penalties are a civil mechanism for promoting compliance with municipal by-laws. Administrative penalties can be imposed through administrative processes, rather than fines imposed in quasi-criminal court processes.

Currently parking offence penalties are issued by the municipality, and individuals receive a municipal penalty notice, rather than a POA Certificate of Offence. Any person wishing to dispute a penalty notice may request a review by a Screening Officer, and the decision of the Screening Officer can be subsequently appealed to a Hearing Officer. Schedule "D" of By-law #3505(2014) designates the Town Clerk as the Screening Officer, and provides for the Town Deputy Clerk to act in the same capacity.

It is up to the municipality to decide the by-laws for which to impose administrative penalties and to decide the amount of an administrative penalty that a person would be required to pay. However, the amount of an administrative penalty cannot be punitive in nature and cannot exceed the amount reasonably required to promote compliance with a by-law.

Administrative penalties are imposed without a court hearing. However, other protections are typically put in place to help ensure that the process for imposing a penalty is fair. It is up to municipalities to set up processes and procedures for an administrative penalty system, such as putting in place a review process for a person who has received an administrative penalty.

If a municipality requires a person to pay an administrative penalty for a by-law contravention, the person cannot be charged with a Provincial Offences violation for the same contravention.

Any administrative penalty imposed on a person constitutes a debt of that person to the municipality. An unpaid administrative penalty can be added to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the administrative penalty and can be collected in the same manner as taxes.

Analysis:

The Town of Pelham bylaw division has been engaged in writing and revising bylaws which give the municipality the ability to enforce and gain compliance, moving enforcement away from the POA courts supports the Region of Niagara's goal to reduce the number of POA offences clogging up its courts and costing the tax payers large sums of money. Using the AMP process to enforce and gain compliance will simplify and expedite this process.

Financial Considerations:

Increasing the utilization of the AMP system will likely create revenues, which traditionally have been paid to the Region of Niagara. In the current system, the Region pays the Town of Pelham approximately 1% of its POA revenues. AMP charges which will be set at a fixed rate of 250.00 per charge for any offence established in by Town by-law. The one exception is the Town's Parking By-law 89-2000, which has lower fines for parking offences.

Alternatives Reviewed:

Remain with the current POA system

Strategic Plan Relationship: Strong Organization

A faster, more flexible and customer-focused adjudication process will be fostered through an augmented AMPS and review process.

Consultation:

Bylaw officers, CAO, Clerk, Ontario Association of Property Standards Officers.

Other Pertinent Reports/Attachments:

Various by-laws will be impacted by the changes to the AMPS program, each on a standalone basis.

Prepared and Recommended by:

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