



Staff Report for Committee of the Whole Meeting

Date of Meeting: February 4, 2019

Report Number: SRCS.19.01

Department: Community Services
Division: By-law & Licensing Enforcement

Subject: **SRCS.19.01 Expansion of the Administrative Monetary Penalty System**

Purpose:

To enact by-law amendments that will facilitate future expansion of the Administrative Monetary Penalty System ("AMPS") to additional by-laws, and amend the delegated authority associated with AMPS to reflect the Town's current organizational structure.

Recommendations:

- a) That staff report SRCS.19.01 be received;
- b) That the draft by-law attached to staff report SRCS.19.01 as Attachment 1 be enacted to amend the Administrative Penalty By-law 69-16, the Screening and Hearing Officer By-law 70-16, and the Delegated Authority By-law 146-08; and,
- c) That staff bring forward amendments to specific community standards and licensing by-laws in order to incorporate additional by-laws into the Administrative Monetary Penalty System.

Contact Person:

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Report Approval:

Submitted by: Ilmar Simanovskis, Commissioner of Community Services

Approved by: Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

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Background:

The Administrative Monetary Penalty System (“AMPS”) is an alternative to the *Provincial Offences Act* (“POA”) process of administering and adjudicating tickets to enforce by-law offences.

Under AMPS, By-law Officers issue “Penalty Notices,” which are ticket-based fines for minor offences. The person to whom the Penalty Notice is issued then has the choice of paying the fine or contesting the ticket at a “Screening Review.” The Screening Review is conducted by a Town staff member who is appointed by the Commissioner as a “Screening Officer” to provide this service. Upon review, the Screening Officer may affirm, vary, grant time to pay, or cancel the Penalty Notice based on evidence presented. If the person to whom the Penalty Notice was issued does not agree with the decision of the Screening Officer they can continue to contest the penalty at a “Hearing Review”. The Hearing Review is conducted by a Council-appointed “Hearing Officer” and the decision of the Hearing Officer is final.

AMPS is significantly different from the POA system as it operates using sequential processes, and strict deadlines for payments and reviews, to ensure that decisions are made in a timely manner. A further significant difference between AMPS and the POA system is that, in AMPS, fines are set at rates that are intended to be deterrent, whereas POA fines are typically set at punitive levels and then reduced significantly at court. The POA court system is currently operating with significant delays, which sometimes lead to cases taking a year or more to be resolved.

AMPS became a viable adjudication alternative for Ontario local governments in 2006 when Bill 130, the *Municipal Statute Law Amendment Act*, amended the *Municipal Act* to permit municipalities to establish an AMPS for parking-related offences. In September 2016, Richmond Hill Council approved the implementation of AMPS for parking offences and implementation of AMPS in Richmond Hill began on July 1, 2017.

In 2017, the *Municipal Act* was further amended by the *Modernizing Ontario’s Municipal Legislation Act, 2017*, which among other things, expanded the permissible scope of AMPS to include contraventions of any by-laws passed pursuant to the *Municipal Act*. Council, at its meeting of June 5, 2018 received staff report SRCS.18.16 which provided an update on implementation of AMPS for parking offences following six months of full system operation. SRCS.18.16 also advised that staff would report to Council in the second quarter of 2019 regarding the expansion of AMPS to the enforcement, processing and resolution of additional community standards by-law and licensing violations.

Why Expand AMPS?

There are a number of reasons the Town should expand its AMPS to additional by-law and licensing matters including:

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- **Expediency and Convenience** - AMPS provides a fair, efficient and convenient alternative to the traditional court process of administering and adjudicating minor by-law offences. In the POA court system, cases are organized and addressed on a docket basis with multiple cases scheduled at one time. Through AMPS, individuals are provided specific appointments. This is advantageous from both the resident and Town perspective as less time is spent waiting for specific cases to be called. Officer time required to defend tickets is significantly reduced because hearings are held at Town offices on an appointment basis and several hearings for the same Officer can be scheduled sequentially.
- **Improved Compliance** – AMPS is advocated as an effective means for promoting voluntary compliance with community standards through deterrent penalties. Improved enforcement through AMPS results because decisions are made more quickly and therefore the deterrent nature of fines has a more immediate impact. Further, while POA fines/tickets are punitive, AMPS fines are set at a level that is intended to deter non-compliant behavior. This difference in the approach to fines can be more effective, particularly when the violation is minor in nature and where delayed adjudication might encourage continued non-compliance. Additionally, expansion of AMPS to address minor offences frees court time and allows the courts to focus on, and deal effectively with, more complex and serious matters.
- **Fiscal Efficiency** – AMPS does not require the significant capital and operating investments of the traditional court system. It operates with fewer staff and significantly less administrative overhead. AMPS also includes a fee structure that facilitates recovery of a portion of operating costs and typically results in efficiencies that realize the collection of a greater amount of fine revenue.

Process of Expanding AMPS to Additional By-laws

The first step towards expanding AMPS to deal with additional by-law and licensing matters is to amend the Town's AMPS By-law 69-16. In its current form, By-law 69-16 specifically establishes a system of administrative penalties for regulations and offences associated with the Town's Parking By-law 402-89, as amended (Municipal Code Chapter 1116). Recommended amendments to the AMPS By-law in order to expand the scope of administrative penalties to any designated Town by-law enacted pursuant to the *Municipal Act* are outlined in Attachment 1.

The amendments set out in Attachment 1 include several changes to definitions, updates to sections describing how Penalty Notices can be served (example, for parking infractions Penalty Notices are most commonly posted on car windshields, but for other by-law offences expanded means of serving the notice are required), and addition of methods for collecting fines and fees (that is, to provide for the ability to add unpaid fines and fees to the tax roll). Additionally, administrative amendments to By-law 69-16 are recommended to clarify the Town's responsibilities in effectively serving notice of a Screening or Hearing Review appointment and to clarify that an in person "interview" is not required for a Screening (i.e., Screening Reviews can be conducted on the phone or online).

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Attachment 1 also contains recommended amendments to the Screening and Hearing Officer By-law 70-16 and the Delegated Authority By-law 146-08 that will change the definition of “Commissioner” to reflect the Town’s current organizational structure in which responsibility for AMPS falls within the purview of the Commissioner of Community Services.

Following enactment of the amendments outlined in Attachment 1, entire *Municipal Act* by-laws, or select offences within specific *Municipal Act* by-laws, can be designated for inclusion within AMPS. The designation process involves amendment of the specific community standards by-law to include AMPS enforcement provisions, and inclusion of a list of AMPS offences and corresponding administrative penalties (e.g., fine amounts) within Schedule A of the AMPS By-law 69-16.

Staff completed a review and assessment of the Town’s licensing and community standards by-laws in order to determine which by-laws would be suitable candidates for inclusion in AMPS, and to establish a timeline for bringing various by-laws into AMPS. This review included benchmarking with other municipalities to determine by-law types that have been incorporated into AMPS in other jurisdictions.

Based on review of the Town’s by-laws, it is proposed that the first phase of AMPS expansion for Richmond Hill should include the Waste By-law and the Tow Truck By-law. Set fines for the current Waste By-law, under the POA system are \$400 for all violations including minor violations such as leaving garbage items on the boulevard between pick-up dates. AMPS fees will be set at much lower amounts to act as deterrents and encourage compliance rather than serve as a punitive measure. The Waste By-law is currently under review and an updated version of the by-law is scheduled for presentation to Council in early 2019. The Tow Truck By-law is an excellent candidate for AMPS expansion because it represents the highest number of tickets issued by the Town under the current *Provincial Offences Act* regime. Additionally, the Tow Truck By-law 54-13 was enacted relatively recently, is functioning well and is not in need of major revision. It is anticipated that minor amendments to the Tow Truck By-law, including AMPS enforcement clauses, will be brought forward in the second quarter of this year.

Following amendments to the Waste and Tow Truck By-laws, a period of public education and awareness around the new AMPS enforcement and adjudication regime associated with these by-laws will be implemented with a target for issuance of associated AMPS Penalty Notices on July 1, 2019. Pending successful introduction of the Waste and Tow Truck by-laws into AMPS, AMPS expansion will proceed with the addition of AMPS clauses to further by-laws as they are brought forward for update. In this regard it is anticipated that the next by-law for consideration in AMPS will be the Noise By-law, as staff anticipate presenting Council with a new Noise By-law for enactment in late 2019.

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Financial/Staffing/Other Implications:

There are no financial or staffing implications associated with the recommendations of this report.

In 2018, the Town's AMPS program collected approximately \$160,000 in revenue. This amount was generated from AMPS late fees, screening and hearing review no show fees and MTO search fees associated with 30,422 parking Penalty Notices. In addition, a balance of approximately \$155,000 in AMPS fees remains unpaid in association with 2018 Penalty Notices that are either currently scheduled for screening or hearing review, or have progressed to Ministry of Transportation for plate denial collection. This amount will also accrue to 2018 budgets (given that it is associated with 2018 Penalty Notices) and result in total 2018 AMPS revenue of approximately \$315,000. Increased parking fine revenues as a result of fine collection efficiencies were also realized through AMPS, but the value of this increase is not possible to quantify.

Expanding AMPS to additional by-laws will mean that additional AMPS revenue will be generated from late fine payments and failures to appear at screening or hearing reviews. However, this revenue increase is expected to be minimal because the number of Penalty Notices issued for any specific community standards by-law will be much lower than the 30,000 issued annually for parking offences.

Inclusion of Tow Truck and Waste By-law offences in AMPS can be accommodated within existing operating budgets given recently realized staff efficiencies generated by conversion to the new AIMS parking control software and implementation of on-line Screening Reviews. Staffing will need to be continually monitored and assessed to determine if resource needs arise as we move forward with incorporation of additional by-laws into AMPS in the future.

Relationship to the Strategic Plan:

The expansion of AMPS to additional by-laws is in keeping with the Strategic Plan goal of "Stronger Connections in Richmond Hill" by maintaining a safe community through education and enforcement.

It is also consistent with the goal of "Better Choice" as it provides an additional efficient and accessible option for achieving by-law compliance.

Conclusion:

The Administrative Monetary Penalty System ("AMPS") is an alternative to the *Provincial Offences Act* process of administering and adjudicating tickets to enforce by-law offences. Expansion of the Town's AMPS to by-laws beyond parking is recommended because AMPS provides for improved compliance, expediency and convenience in adjudication of by-law matters, and fiscal efficiency.

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The first step towards expanding AMPS to deal with additional by-law and licensing matters is to amend the Town's AMPS By-law 69-16 as outlined in this report. At the same time it is recommended that delegated authority associated with the Town's AMPS be updated to reflect the Town's current organizational structure which situates AMPS within the Community Services Department.

Once the AMPS By-law 69-16 is amended, staff will begin to bring forward specific community standards and licensing by-laws for incorporation into AMPS starting with the Waste By-law and the Tow Truck By-law. Initial expansion of the AMPS program to include these two by-laws will not have any significant financial or staffing implications.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Attachment 1 – By-law 8-19 to amend the Administrative Monetary Penalty By-law 69-16, Screening and Hearing Officer By-law 70-16, and Delegated Authority By-law 146-08

Report Approval Details

Document Title:	SRCS.19.01-AMPS Expansion.docx
Attachments:	- By-law No 8-19.docx
Final Approval Date:	Jan 24, 2019

This report and all of its attachments were approved and signed as outlined below:

Tracey Steele - Jan 23, 2019 - 3:35 PM

Ilmar Simanovskis - Jan 24, 2019 - 2:09 PM

Neil Garbe - Jan 24, 2019 - 2:18 PM