



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
*Licensing and By-law Services Division*

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 10, 2018
<b>SUBJECT/REPORT NO:</b>	Expanding Administrative Penalty System (APS) to Include the Yard Maintenance By-law 10-118 (PED18165) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Luis Ferreira (905) 546-2424 Ext. 3087
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the amendment to the Administrative Penalty By-law 17-225 (APS) to include By-law 10-118 being a By-law to Regulate Exterior Property Maintenance Including Vegetation, Waste and Graffiti (“Yard Maintenance By-law”) as shown in Appendix “A” to Report PED18165 which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

**EXECUTIVE SUMMARY**

At its meeting of September 27, 2017, Council approved Item 3 of Planning Committee Report 17-015 directing staff to implement the Administrative Penalty System (APS) to Municipal By-laws. Building on the successful transitioning and implementation of several other by-laws to APS, staff is now ready to include the Yard Maintenance By-law as Table 13 to the Administrative Penalties By-law 17-225.

Including the Yard Maintenance By-law to the APS By-law will more than likely transfer most, if not all, Part I tickets issued annually under the *Provincial Offence Act* to the Municipality as an Administrative Penalty Notice (APN). This enforcement approach aids in reducing congestion in the courts, as well as providing a more local, accessible and a less adversarial dispute resolution process for our residents.

Staff is seeking Council’s approval to include the Yard Maintenance By-law as Table 13 to the APS By-law.

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***Alternatives for Consideration – Not Applicable***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The current set fines are in line with the previously Provincially-approved fine amounts.

Staffing/Legal: N/A

**HISTORICAL BACKGROUND**

In 2007, amendments to the *Municipal Act, 2001* provided statutory authority for Municipalities to implement Administrative Penalties for the enforcement of Parking and Licensing By-laws.

On May 30, 2017, Bill 68 was passed which clarified the application of APS to all by-laws enacted under the *Municipal Act, 2001*.

At its meeting of September 27, 2017, Council approved Item 3 of Planning Committee Report 17-015 directing staff to implement APS to Municipal By-laws.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The APS By-law 17-225 will be amended to include the Yard Maintenance By-law 10-118 as Table 13 in Schedule A.

**RELEVANT CONSULTATION**

N/A

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

APS has been adopted by numerous municipalities across Ontario. The benefits of this system include: improving service excellence, enhancing staff efficiencies and effectiveness, supporting operational cost recovery and autonomy over infraction penalty amounts as contained in s. 434.1(3) of the *Municipal Act, 2001*.

The Yard Maintenance By-law requires owners and occupants of land to maintain their property to an acceptable standard, free of refuse and debris while prohibiting and regulating public nuisance matters. The inclusion of the Yard Maintenance By-law within the APS will allow Officers to issue an APN for a contravention of the Yard Maintenance By-law which will encourage the desired response with a view of expediting the remedial action taken by the appellant.

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Since January 2018, approximately 632 APNs have been issued under By-laws 12-031 (Responsible Animal Ownership), 12-130 (Feeding Wildlife), 07-170 (Licensing), 11-285 (Noise Control) and 01-219 (Parks) for a total revenue collected of \$20,302.50.

Six-hundred and twenty APNs have been issued for contraventions of By-law 12-031, with most of the tickets issued for failing to license a dog. This number exceeds the total number of all Provincial Offences Tickets issued last year by Animal Services Officers. In addition to the revenue collected under the APS Program, there appears to be a direct connection between the issuance of an APN and the renewal of and obtaining a dog licence. For the first three months of this year, over \$40,000 has been collected. It appears that the issuance of an APN encourages individuals to comply with the By-law and obtain proper licences for their animals.

By-laws 07-170, 11-285 and 01-219 were added to the APS By-law in April and it is anticipated the same benefits and positive results as experienced through the implementation of By-law 12-031.

APS provides a better customer experience with regards to the dispute resolution process through a quasi-judicial process with Hearing Officers having final and binding authority over the matter.

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. The City of Hamilton's APS By-law has been written to allow for inclusion of other Municipal By-laws. Staff is seeking approval to include the Yard Maintenance By-law as Table 13 to the APS By-law.

This complies with Council's direction to expand the APS process to by-laws enacted under the *Municipal Act, 2001*.

## **ALTERNATIVES FOR CONSIDERATION**

N/A

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

*Hamilton* has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Healthy and Safe Communities**

*Hamilton* is a safe and supportive city where people are active, healthy, and have a high quality of life.

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**Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Amending By-law adding Table 13 – Yard Maintenance By-law

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