



**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>	April 30, 2019
<b>SUBJECT/REPORT NO:</b>	Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (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(S)**

That the Administrative Penalty System By-law 17-225 (APS) be amended to include the Sign By-law 10-197 as Table 16 to Schedule A, in accordance with the amending by-law attached as Appendix "A" to Report PED19092 to 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 Administrative Penalty System (APS) to Municipal By-laws. Staff is now ready to include the Sign By-law as Table 16. This approach aids in reducing congestion in the Courts, as well as providing a more local, accessible and less adversarial dispute resolution process.

APS is a process to deal with minor by-law infractions in a manner that is fair, effective and efficient. APS has been adopted by numerous municipalities who have experienced the same benefits as the City of Hamilton, including: 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*.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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APS enforcement transfers by-law disputes from the courtroom to the municipality through a quasi-judicial process with the Hearing Officers having final and binding authority over the matter.

Screening Officers review Administrative Penalty Notices (APNs) that are not voluntarily paid and Hearing Officers (Independent Council Appointees) adjudicate APNs that are not successfully remedied by the Screening Officers.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / 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 cementing the application of APS to all by-laws enacted under the *Municipal Act, 2001*.

At its meeting of September 27, 2017, Council approved 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 Sign By-law 10-197 as Table 16 to Schedule A.

**RELEVANT CONSULTATION**

N/A

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. The City of Hamilton APS By-law currently holds seven Parking By-laws, two Animal Services By-laws, one Licensing By-law and five Municipal By-laws. The APS By-law has been written in a manner to allow for other Municipal By-laws to be added as additional tables to Schedule A to By-law 17-225.

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The *Municipal Act, 2001* specifically authorizes the implementation of APS for designated by-laws. Staff is seeking approval to expand APS to include the Sign By-law 10-197.

Historically Municipal By-law Enforcement Officers (MLEOs) issued Part I tickets for contraventions of Municipal By-laws. Voluntary payment is made to the Province and disputes are addressed within the Provincial Courts. The current court process for disputing charges under *the Provincial Offences Act* mirrors a criminal trial, which involves significant public resources such as, the requirement of a Justice of the Peace, a Prosecutor, court support staff, security and the MLEO who provide evidence. There is also the time spent by Enforcement Staff (Officers and Clerks) who prepare case files and other court documents. The current court process is inconvenient for the defendants as expenses are often incurred, including the time and cost associated with finding legal representation, travel, child care costs, and taking time off work to attend court.

APS is a process to deal with minor by-law infractions in a manner that is fair, effective and efficient. This system has been adopted by numerous municipalities and is designed to streamline the enforcement process and increase compliance with by-laws.

After the MLEO issues a penalty notice to an alleged offender, the matter can be reviewed by a Screening Officer during regular business hours. If the citizen is unsatisfied with the outcome, they may escalate the matter to be adjudicated by a Hearing Officer, usually scheduled within a month or two of the date of the offence.

Utilizing Screening Officers, who review APNs and Hearing Officers, who adjudicate these matters is more efficient, as the City maintains greater control of the integrity of the penalty amount, the resolution process, as well as offering easy payment options through the Licensing and By-law Services Office, the six Municipal Service Centres, the Animal Services facility as well as online using "Paytickets".

**Benefits with the Implementation of APS**

- Fewer court disputes which means efficiencies on staff resources spent preparing and attending these matters;
- Additional administrative fees and improved collection options granted to municipalities by the *Municipal Act, 2001* to aid in higher recovery rates of unpaid fines;
- Additional revenues collected through enforcement activities; and,

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- Additional administrative fees applied to individuals who fail to pay or dispute their ticket by the due date.

**Improved Customer Service**

- Citizens resolve by-law infraction matters in a more convenient and citizen-friendly environment as City staff is more capable of dealing with by-law contraventions in a timely manner;
- Citizens will have flexibility:
  - extensions of time in which to request a review of a matter;
  - extensions of time to pay a penalty;
- Wait times to appeal by-law tickets will be reduced as staff can schedule additional hearing dates to accommodate demand. A quasi-judicial type setting for hearings are less intimidating to the public; and,
- Removes potential perception that the dispute process is biased, the Hearing Officer is an independent contractor (with a qualified legal background) not a City employee, who on a balance of probabilities adjudicates on the merits of the violation and renders a final and binding decision not subject to any judicial review.

**Efficient Use of Staff Time**

- Time spent preparing and attending Provincial Court will be drastically reduced. Enforcement Officers do not have to attend Provincial Court or APS Hearings to defend tickets (it was estimated that Officers spent a minimum of two hours waiting to make a brief appearance in court with a minimum of three appearances to resolve the matter);
- The amount of time staff spent processing individual infractions will be reduced as tickets can no longer be re-opened, previously defendants had the ability to appeal their convictions to a higher court;
- Screening Officers review APNs on the spot and affirm, amend, give more time to pay and cancel tickets. If unsuccessful they set hearing dates to resolve the matter usually within a month or two;
- Shift scheduling will not be required as Supervisors no longer have to schedule Officers around court dates or hearing dates;

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- Reducing congestion in Provincial Courts, allowing the over-burdened Provincial Courts to address other matters; and,
- Promoting better use of court time and other resources.

**Autonomy of APS**

- The review and adjudication process, the language used in the issuance of an APN and the penalty amount imposed (any by-laws enacted under the *Municipal Act, 2001*) are under the jurisdiction of the municipality and no longer require the use of Provincial Courts or the approval of the Chief Justice of Ontario.

The City of Hamilton APS By-law has been written as such to allow for inclusion of other Municipal By-laws as applicable.

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.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": By-law Adding Table 16 to Schedule A of the APS By-law 17-225