



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT
Licensing and By-law Services Division
and
Transportation Planning and Parking Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	December 3, 2019
SUBJECT/REPORT NO:	Expanding Administrative Penalty System (APS) By-law 17-225 to include Section 3(2) of the Yard Maintenance By-law 10-118 (PED19225) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY: SIGNATURE: SUBMITTED BY: SIGNATURE:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department

RECOMMENDATION(S)

- (a) That the amendment to the Administrative Penalty System (APS) By-law 17-225 to include the contravention under subsection 3(2) of the Yard Maintenance By-law 10-118 described in Report PED19225, detailed in the proposed amending by-law attached as Appendix "A" be approved;
- (b) That the amending by-law attached as Appendix "A" to Report PED19225, which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

EXECUTIVE SUMMARY

By-law amendments are occasionally required to improve enforcement activities and update various by-laws as part of continuous improvement efforts for the most efficient and effective by-laws.

On July 12, 2019, Council approved Item 6.4 of Planning Committee Report 19-011 to amend the Yard Maintenance By-law 10-118 to include the maintenance requirements for trees in properties within the urban boundary. Staff is seeking approval to add this provision to the other minor contraventions under the Yard Maintenance By-law currently listed in Table 13 to Schedule A of the City of Hamilton APS By-law 17-225.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial / Staffing / Legal: N/A

HISTORICAL BACKGROUND

At its meeting of September 27, 2017, Council approved Item 3 of Planning Committee Report 17-015 to enact the City of Hamilton APS By-law, directing staff to implement an Administrative Penalty System for the City's regulatory by-laws. To date, a total of 19 by-laws are included in the APS By-law.

On July 13, 2018 Council, approved Item 6.2 of Planning Committee Report 18-011 to amend the City of Hamilton APS By-law 17-225 to include minor contraventions under the Yard Maintenance By-law 10-118.

On July 12, 2019, Council amended the Yard Maintenance By-law, in part, to transfer the minor maintenance requirements for trees (limbs and branches) from the Property Standards By-law 10-221 to the less formal procedures and process under the Yard Maintenance By-law. It is fitting to add this recent amendment to the other minor contraventions under the Yard Maintenance currently listed in Table 13 to Schedule A of the APS By-law.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. Bringing the minor by-law contraventions into APS provides an alternative to the formal court trial setting to deal with minor by-law infractions in a manner that is fair, effective and efficient requiring far less resources.

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

In most cases voluntary compliance of the Yard Maintenance By-law is achieved with no further action taken after the initial inspection of the Municipal Law Enforcement Officer. Failing voluntary compliance, Orders are issued and fees for service applied, followed by City contractors to remedy the contravention with costs added to the property tax roll. Legal action is commenced when the property owner continues to re-offend.

The current process under *the Provincial Offences Act* involves a formal court procedure involving significant public resources. Whereas, the issuance of Administrative Penalty Notices (APNs) provides a fair, effective and efficient process that is proportionate to encourage compliance to City of Hamilton By-laws.

The use of APNs has produced positive impacts to administer and enforce other minor contraventions under the Yard Maintenance By-law currently designated in the APS By-law. Staff propose amending the APS By-law to include the recently amended tree maintenance requirements under the Yard Maintenance By-law provisions.

Issuing APNs under the APS By-law does not include the lengthy formal process found in the Provincial Offences Court. Tickets are reviewed by a Screening Officer over the phone, via email, regular mail or in person without an appointment. Less formal Hearings are conducted providing offenders the opportunity to dispute their APNs in a non-adversarial manner. This enhanced resolution process within APS is an expedient and efficient method that provides excellent customer service for individuals who wish to exercise this option.

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.

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Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A": By-law amending Table 13 to Schedule A of the APS By-law 17-225

KL:BH:st