



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 18, 2018
SUBJECT/REPORT NO:	Expanding Administrative Penalty System (APS) to include the Vacant Building Registry By-law 17-127 (PED18219) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Luis Ferreira (905) 546-2424 Ext. 3087
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Administrative Penalty System By-law 17-225 (APS) be amended to include The Vacant Building Registry By-law 17-127 as shown in Appendix "A" to Report PED18219 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 Administrative Penalty System (APS) to Municipal By-laws. Staff is now ready to include the Vacant Building Registry By-law as Table 15 to the Administrative Penalties By-law 17-225.

There are currently over 400 vacant buildings registered and unregistered in the Vacant Building Program. Municipal Law Enforcement Officers (MLEO) conduct 3,000 vacant building inspections a year. Many inspections revealed non-compliance to various regulations within the By-law with only the most egregious violations resulting in charges laid. In most cases fees for services and remedial costs to the property owner were applied.

Applying an Administrative Penalty Notice (APN) to the equation will provide the MLEO with an extra option to address minor contraventions of the By-law and encourage

compliance in a form of a reasonable, non-punitive penalty. More serious matters will still be address through Part I and Part III summonses and disputed through the Provincial Courts.

Including the Vacant Building Registry By-law to the APS By-law will provide the MLEO with an additional option to encourage compliance as well as aid in reducing congestion in the Provincial Courts, provide a more local, accessible and less adversarial dispute resolution process.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The current set fines have been amended to adhere to the guiding principles of the Administrative Penalty System which is not meant to be punitive in nature but rather encourage compliance and cost recovery.

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 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 Vacant Building Registry By-law 17-127 as Table 15 in Schedule A.

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Administrative Penalty System 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*.

APS provides a better customer experience with regards to the dispute resolution process of Administrative Penalty Notices (APN) through a quasi-judicial proceeding with a Hearing Officer having final and binding authority over the matter and not subject to judicial review.

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. The City of Hamilton's APS By-law has been written as such to allow for inclusion of other Municipal By-laws. Staff is seeking approval to include the Vacant Building Registry By-law as Table 15 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 & 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.

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 15 - Vacant Building Registry

KL/LF/st