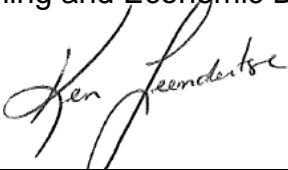





CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division
and
Transportation Planning and Parking Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	December 8, 2020
SUBJECT/REPORT NO:	Expanding Administrative Penalty System By-law 17-225 to include Sections 5, 6, 8, 9 and 21 of the Public Nuisance By-law 20-077 (PED20214) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY: SIGNATURE:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department 
SUBMITTED BY: SIGNATURE:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department 

RECOMMENDATION

- (a) That the amendment to the Administrative Penalty System (APS) By-law 17-225 to include the contraventions under Sections 5, 6, 8, 9 and 21 of the Public Nuisance By-law 20-077 described in Report PED20214, 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 PED20214, which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

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.

EXECUTIVE SUMMARY

By-law amendments are occasionally required to improve enforcement activities and update various by-laws. This is part of the Licensing and By-law Services continuous improvement efforts to ensure that the City has the most efficient and effective by-laws.

On April 22, 2020 Council enacted By-law No. 20-077 to repeal and replace the City of Hamilton Public Nuisance By-law to include contraventions in relation to personal cannabis cultivation. Staff request approval to add additional personal cannabis cultivation contraventions to Table 23, 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.

On April 22, 2020, Council enacted a revised Public Nuisance By-law No. 20-077 to remedy the adverse impacts of the odour and excessive light effects from personal cannabis production, which included other minor contraventions under the Administrative Penalties By-law 17-225.

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

The revised Public Nuisance By-law 20-077 introduced provisions which are not currently being addressed by the federal and provincial governments to remedy the adverse impacts on the community of the odour and excessive light effects of personal cannabis production. In most cases voluntary compliance is achieved with no further action required after the initial inspection of the Municipal Law Enforcement Officer. Failing voluntary compliance, legal action is commenced when the subject 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.

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. The enhanced resolution process within APS is an expedient and efficient method that provides excellent customer service for individuals who wish to exercise this option in lieu of a formal trial.

The use of APNs has produced positive impacts to administer and enforce other minor contraventions under the City's regulatory by-laws currently designated in the APS By-law. It has proven to be an important step in the Progressive Enforcement policy established by Licensing and By-law Services, reserving the formal trial process for egregious or significant events. Staff propose amending the APS By-law to include those contraventions relating to the production of personal cannabis under Sections 5, 6, 8, 9 and 21 of the Public Nuisance By-law.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

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

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 23 to Schedule A of the APS By-law 17-225