




**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>	June 18, 2024
<b>SUBJECT/REPORT NO:</b>	Expanding Administrative Penalties (APS) By-law No. 17-225 to include new penalties for the Licensing, Property Standards, Vital Services, Safe Apartment Buildings and Renovation Licence and Relocation By-laws (PED24091) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Gillian Barkovich (905) 546-2424 Ext. 2348
<b>SUBMITTED BY:</b>	Dan Smith Acting Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the amending by-law to the Administrative Penalties (APS) By-law No. 17-225 to incorporate various offences contained within the Property Standards By-law No. 23-162, Vital Services By-law No. 23-161, Safe Apartment Buildings By-law No. 24-054, Renovation Licence and Relocation By-law No. 24-055 and Schedule 32 (Short-term Rentals) of the Licensing By-law No. 07-170, as described in Report PED24091 and attached as Appendix “A” to Report PED24091, be approved.

**EXECUTIVE SUMMARY**

The purpose of this report is to amend the Administrative Penalties (APS) By-law No. 17-225 to incorporate new and updated penalties for various new by-laws and schedules enforced by Licensing and By-law Services. By-law amendments are occasionally required to improve enforcement activities and update various by-laws as part of continuous improvement efforts to develop the most efficient and effective by-laws.

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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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The *Municipal Act, 2001*, S.O. 2001, c. 25 (the “*Municipal Act, 2001*”) authorizes the use of administrative penalties for designated by-laws. Having minor by-law contraventions in the City’s Administrative Penalty System provides an alternative to the formal Provincial Offences court process to deal with minor by-law infractions in a manner that is fair, effective and efficient and requires far fewer resources.

This report proposes the introduction of new and updated penalties for the following by-laws:

- Property Standards By-law No. 23-162;
- Vital Services By-law No. 23-161;
- Safe Apartment Buildings By-law No. 24-054;
- Renovation Licence and Relocation By-law No. 24-055; and,
- Schedule 32 (Short-term Rentals) of the Licensing By-law No. 07-170.

**Alternatives for Consideration – Not applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Not applicable.

Staffing: Not applicable.

Legal: Legal Services assisted with the preparation of the appended Draft Amending By-law to amend Administrative Penalties (APS) By-law No. 17-225, attached as Appendix “A” to Report PED24091.

**HISTORICAL BACKGROUND**

In September 2017, through Report PED17165(a) – Expanding Administrative Penalty System, Council approved the expansion of the City of Hamilton Administrative Penalties (APS) By-law, to incorporate the City of Hamilton Responsible Animal Ownership By-law No. 12-031, the Feeding of Wildlife By-law No. 12-030, followed by the Licensing By-law and other Municipal Law Enforcement By-laws.

In January 2023, through Report PED17203(c) – Licensing Short-term Rental Accommodations, Council approved an amendment to the Licensing By-law No. 07-170 to introduce Schedule 32 (Short-term Rentals) to license and regulate both operators and brokers of short-term rental accommodations in the City of Hamilton and authorized staff to create new administrative penalties to amend the Administrative Penalties (APS) By-law.

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In August 2023, through Report PED23072 - Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton, Council approved new and updated Property Standards and Vital Services By-laws to better regulate the supply of vital services and to prescribe clearer standards for the maintenance and occupancy of properties in the City of Hamilton. Council also authorized staff to create new administrative penalties to amend the Administrative Penalties (APS) By-law.

In April 2024, through Reports PED23072 and PED23072(a) – Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton, Council approved new Safe Apartment Buildings and Renovation Licence and Relocation By-laws to regulate apartment building property standards and registration of apartment buildings and to regulate repairs and renovations to rental units in the City of Hamilton. Council also authorized staff to create new administrative penalties to amend the Administrative Penalties (APS) By-law.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Staff's review considered the following applicable Municipal and Provincial legislation:

- *Municipal Act, 2001, S.O. 2001, c 25;*
- *Provincial Offences Act R.S.O. 1990, c P. 33;* and,
- Municipal By-laws including Licensing, Property Standards, Vital Services, Safe Apartment Buildings, Renovation Licence and Relocation and Administrative Penalty (APS) By-laws.

The *Municipal Act, 2001* authorizes the use of Administrative Penalties for designated by-laws. Section 434.1 of the *Municipal Act, 2001*, provides the authority for municipalities to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law. The purpose of the Administrative Penalties By-law No. 17-225 is to assist municipalities in promoting compliance with its by-laws. Subsection 434.1 (3) states that the amount of an administrative penalty shall (a) not be punitive in nature and (b) shall not exceed the amount reasonably required to promote compliance with a by-law of the municipality. This may include issuing penalties for each day that an offense occurs.

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**RELEVANT CONSULTATION**

In preparing the draft By-law appended to this report and crafting the recommendation highlighted herein, the following internal divisions were consulted:

- Corporate Services Department, Legal and Risk Management Services Division, Legal Services;
- Planning and Economic Development Department, Transportation Planning and Parking Division; and,
- Planning and Economic Development Department, Licensing & By-law Services Division.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

In most cases, voluntary compliance with by-laws is achieved with no further enforcement action required after initial inspection by a Municipal Law Enforcement Officer. If voluntary compliance is not achieved, Orders may be issued and fees for service applied, followed by charges and the request for City contractors to attend the property and remedy the contravention. Contractor costs are added to the property tax roll. Legal action may commence where a property owner continues to re-offend.

Enforcement through the *Provincial Offences Act* involves a lengthy formal court procedure utilizing significant public resources. In contrast, the issuance of Administrative Penalty Notices (APNs) through the Administrative Penalties (APS) By-law provides an effective and efficient process that is also fair, proportionate and encourages compliance with City of Hamilton by-laws.

Issuing Administrative Penalty Notices does not include the lengthy formal process that occurs in the Provincial Offences Court. Penalty Notices are reviewed by a Screening Officer over the phone, via email, regular mail or in person without an appointment. Less formal Hearings may be conducted to provide offenders the opportunity to dispute their Screening Decision. The Hearing Officer's Decision regarding the Penalty Notice is final. This enhanced resolution process is an efficient method that provides excellent customer service for individuals who wish to exercise these options.

The use of Administrative Penalty Notices has produced positive impacts in relation to the administration and enforcement of the minor contraventions currently designated in the Administrative Penalties (APS) By-law that Licensing and By-law Services staff enforce.

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Since the introduction of the Administrative Penalties (APS) By-law in the City of Hamilton and where appropriate contraventions exist, Licensing and By-law Services staff have consistently proposed the incorporation of those contraventions within the Administrative Penalties (APS) By-law upon amendments to existing by-laws and/or approval of new by-laws by Hamilton City Council. Generally, staff will first make application for approval of set fines to the Ministry of the Attorney General. Upon approval of set fines, staff will work with Legal Services to develop new administrative penalties.

As detailed in Appendix “A” to Report PED24091, staff propose amending the Administrative Penalties (APS) By-law to incorporate penalties associated with offences under the follow new and/or updated by laws:

- Property Standards By-law No. 23-162;
- Vital Services By-law No. 23-161;
- Safe Apartment Buildings By-law No. 24-054;
- Renovation Licence and Relocation By-law No. 24-055; and,
- Schedule 32 (Short-term Rentals) of the Licensing By-law No. 07-170.

### **Vital Services and Property Standards By-laws**

In August 2023, through staff’s proposal of the Hamilton Apartment Rental Program to address renovictions in Hamilton, the existing Vital Services and Property Standards By-laws were repealed and replaced with new and updated Vital Services By-law No. 23-161 and Property Standards By-law No. 23-162. Contraventions associated with the original by-laws were incorporated into the Administrative Penalties (APS) By-law. As summarized in Appendix “A” to Report PED24091, staff propose the deletion of penalties associated with the repealed by-laws and the introduction of new administrative penalties associated with the new and updated by-laws. Application for set fines has already been approved by the Ministry of the Attorney General.

### **Safe Apartment Buildings and Renovation Licence and Relocation By-laws**

In April 2024, Council approved new Renovation Licence and Relocation and Safe Apartment Buildings By-laws to help address renovictions in the City of Hamilton. As detailed in Appendix “A” to Report PED24091 staff have proposed the creation of new administrative penalties associated with both by-laws. Approval of new penalties will ensure timely and effective implementation and enforcement of both by-laws in 2025 and 2026 respectively. Application for set fines has been made to the Ministry of the Attorney General, but has not yet been approved.

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**Schedule 32 (Short-term Rental Accommodations) – Licensing By-law**

In January 2023, Schedule 32 (Short-term Rental Accommodations) of the Licensing By-law was approved. Due to prioritization of the renovations related work, implementation of the Short-term Rental schedule was delayed and enforcement of the By-law began in January 2024. The application for set fines was approved by the Ministry of the Attorney General and as detailed in Appendix “A” to Report PED24091, staff have proposed the creation of new penalties associated with Schedule 32.

**ALTERNATIVES FOR CONSIDERATION**

Not applicable.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED24091 – Draft Amending By-law to amend Administrative Penalties (APS) By-law No. 17-225