



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

Meeting Date: Monday, October 03, 2022

To: Mayor and Members of Council

From: Jennifer Willoughby, Director of Legislative Services/Clerk, and Tami Abbott, Bylaw Enforcement Officer

Report: LS2022-21

Subject: **Administrative Monetary Penalty System Program (AMPS)**

Recommendation

BE IT RESOLVED THAT Council receives report LS 2022-21 for information;

AND THAT Council authorizes staff to investigate the potential of introducing an Administrative Monetary Penalty System Program for the Town of Shelburne;

AND FURTHER THAT staff reports back to Council at a future date with requirements for implementation of the AMPS program including costs associated.

Background

This report is seeking Council's approval to further investigate an Administrative Monetary Penalty System program for parking offences, with the potential of expanding this program to include non-parking related bylaw offences in the future.

The Provincial Offences Act (POA) is the current system in place to prosecute parking violations within the Town of Shelburne.

This Report provides an overview of Administrative Monetary Penalties (AMPS), an alternative system to the POA system, and provides an objective, efficient and improved customer service process where penalty notices are issued, managed, and reviewed at the municipal level.

Analysis

Legislative Changes

In 2007, changes were made to the Municipal Act, 2001 to allow municipalities to develop and implement an Administrative Monetary Penalty System (AMPS) to process and adjudicate parking violations. Subsequent amendments to the Municipal Act, 2001 extended the authority to include other types of municipal bylaws (which were previously excluded, i.e., dog at large, noise bylaw and public nuisance, etc.,) [0. Reg. 333/07](#) (the Regulation enacted in 2007) sets out specific requirements that must be met to establish an AMPS.

Administrative Monetary Penalties (AMPS) are an emerging approach to dealing with minor bylaw infractions in a manner that is fair, effective, and efficient. This approach has been adopted by numerous municipalities, provincial and federal levels of government. It is designed to streamline the enforcement process and increase compliance with bylaw infractions, as well as keep revenue generated within the municipality.

Due to COVID-19, Staff are seeing increased delays in the handling of municipal matters in the POA court system. Municipalities are being asked to consider matters placed before the courts based on the severity of the matter due to the backlog of legal matters.

AMPS is an alternate system to the lengthy and costly provincial courts process that is currently in place. AMPS provides an objective, and efficient process where penalty notices are issued, managed, and reviewed internally.

AMPS, applied as set fines, acts as a deterrent to both first time and repeat offences. However, financial penalties are not the only option, as bylaw services will continue in its role to educate where opportunity exists. More importantly, warnings can still be issued where appropriate.

The AMPS Program transfers bylaw disputes from the courtroom to the municipality using Screening and Hearing Officers, who can modify, cancel, or affirm penalties. This approach aids in reducing congestion in the courts as well as providing a more local and accessible dispute resolution system. The phasing in of the new AMPS program can begin once bylaws and set fines are in place.

Benefits to the Town of Shelburne with respect to implementation of an AMPS program are expected to include and are not limited to:

- Improved customer service: with an AMPS program, regulatory matters can be in-house, and no longer require courts, justice of the peace, the officer that issued the charge etc.
- Efficiencies: POA trials are often months delayed and further delays due to court backlogs, through an AMPS program these wait times will be significantly reduced.
- Cost Savings: to be recognized in time, currently the courts process parking tickets after a certain point in time and keep certain administrative fees. With AMPS, administrative and offence fees applied for the services would be maintained by the municipality.
- Can also be used as an alternative enforcement tool as opposed to the Provincial Offences Act (POA). Instead of a prosecution under Part I (Certificate of Offence - Ticket), Part II (Certificate of Parking Infraction - Ticket), or Part III (Information and Summons) of the POA, an AMP can be issued for any bylaw infraction. Municipal Council would set the fines by enacting a bylaw.
- Staff would no longer have to apply to the Ministry of the Attorney General to have set fines approved.

Many municipalities within the Province utilize the AMPS system, a sample of municipalities currently using the AMPS system include Hastings Highlands, Leeds and the Thousand Islands, Hamilton, Waterloo, Kingston, Brampton, Georgina, Lincoln and Caledon, to name only a few. Each of these municipalities have designated parking, and/or property related bylaws to be enforced under the AMPS program. Some have implemented the AMPS program as a result of the delays and difficulties in accessing the POA system due to COVID 19 closures, staffing shortages, and/or lack of Justice of the Peace availability.

Attached as Appendix 1 is a Comparison Chart of POA vs the AMPS process.

Attached as Appendix 2 is an AMPS Process Flow Chart, which shows the process and how it will be managed.

How is an AMP Program more effective?

- Ticket does not need to be issued in person at the time of the offence,

- Tickets can be issued to a property owner and registered on their tax roll, if unpaid,
- Ticket can be issued for most bylaw offences,
- Issued tickets can be tracked internally rather than through an external court,
- Subsequent offences can receive a higher monetary penalty,
- The Town can deal with minor bylaw infractions in a timely manner,
- Reduces congestion in provincial courts,
- Resolves bylaw infraction matters in a convenient, citizen-friendly place,
- Request an extension of time to request a review of the AMP by a Screening Officer and/or Hearing Officer,
- Request an extension of time to pay an AMP by a Screening Officer and/or Hearing Officer.

Which Bylaws Would be Administered Under An AMPS Program?

Bylaws passed under the authority of the Municipal Act may be administered under AMPS; however, this would not include zoning bylaws pursuant to the Planning Act as there is no authority for processing Planning Act matters through AMPS. At present it is recommended that the traffic and parking control bylaws be implemented using AMPS. Further expansion of other regulatory bylaws may be considered in the future.

Staff recommend the implementation of AMPS to provide cost effective, streamlined and customer centric process for disputing and resolving parking tickets.

Enactment of an AMPS Bylaw

The legislation requires that, as an integral part of implementing an AMPS process, a municipality must enact a comprehensive bylaw that prescribes the various elements of the adjudication process, from the issuance of the ticket to its' resolution. In essence, this bylaw replaces the administrative processes as are currently prescribed by the POA.

Amendment to Existing Traffic and Parking Control Bylaws

Bylaws to be processed under AMPS where violations are contained will need to be amended so that offence provisions contained therein will no longer be subject to the Provincial Offences Act but will be governed by the AMPS process.

Enactment of Screening and Hearing Officer Bylaw

The Regulation requires that any AMPS system must include a formalized two (2) step resolution process for anyone wishing to dispute and resolve a parking violation or any non-parking related violation. These two (2) steps are known as a "screening" and a "hearing". A Bylaw to establish the position of screening officer and hearing officer, and to provide for appointment of individuals as screening/hearing officers, is required.

As required by the Regulation, Staff will develop a draft screening and hearing officer bylaw for Council's consideration. The bylaw will provide for the appointment of a screening and hearing Officer and sets out restrictions on who can qualify for these positions, to ensure the integrity of the process. It is recommended that the appointment of screening and hearing officers be delegated to staff. Staff are developing a supporting policy relating to the appointment of a screening and hearing officer, which will be forthcoming to Council for consideration.

The screening officer can be an in-house staff person however the hearing officer is required to be an external third party.

The Town of Shelburne has reached out to surrounding Dufferin municipalities to determine if these positions could be utilized as a shared service. To date the response and feedback has been positive for a shared service, in regards to both the screening and hearing officer.

AMPS Policies and Procedures

In addition to the requirement for an AMPS bylaw and revisions to existing bylaws, O. Reg. 333/07 (the "Regulation") passed under the Municipal Act, 2001, requires that a municipality develop standards relating to the administration of the system.

These procedures must provide for a suspension of the enforcement mechanisms available in the Regulation, in relation to the administrative penalty if an extension of time has been granted. The draft AMPS Bylaw provides the grounds upon which an extension of time may be granted and delegates authority to the Director of Legislative Services, or their designate, to establish the necessary procedures.

In addition, the Regulation requires that procedures must be established to permit persons to be excused from paying all or part of the administrative penalty, including any administrative fees, if requiring them to do so would cause undue hardship.

These draft policies are currently being prepared and are proposed to be handled by staff as enabled under the legislation and consistent with how other neighboring municipalities have implemented them. These policies will be reviewed by the Town's Legal Counsel.

Under an AMPS process, any person disputing a notice will be able to do so entirely with the Town.

Staff believe that implementing an AMPS process, as outlined in this Report, to transition the parking ticket adjudication process away from the formalized process prescribed by the POA, will be a significant improvement in customer service. In essence, the current "legal" process will be eliminated, in favor of an enhanced dispute resolution mechanism.

Policies and Implications

Traffic Bylaw #8-1983

Financial Impact

The financial implication of implementation of an AMPS program would not significantly alter current processes with respect to how parking tickets (penalty notices) are issued or how many are issued.

Further investigation is required to review costs associated with implementation of the program which includes the purchase of specialty software to manage the program.

Statistics relating to ticket violations and the resulting fine revenue can fluctuate slightly from year to year, depending on circumstances, weather, special initiatives, etc., and it is anticipated that this trend will continue.

The Town is currently utilizing the services of a third-party paralegal for POA offences. Their flat fee for POA services is \$450.00 for half day and \$650.00 for full day. The requirement to hire a third-party will continue as the Town is required to engage a Hearing Officer and that the cost related to retaining a Hearing Officer would be shared between Dufferin municipalities. Hearings would take place approximately once per month, or as required, with each municipality bearing the cost of hearings taking place in its jurisdiction.

Staff believe there will be an increase in parking fine revenue as it relates to the collection of late fees, imposed where someone fails to fulfill their obligations to respond appropriately to resolve their ticket. This can

include the plate denial fees that are placed on a license plate renewal if the parking ticket is forwarded to the Ministry of Transportation as part of their Plate Denial program.

The current system under the POA, provides for 'fail to respond fees' and 'plate denial fees'. Under this system, as prescribed by Provincial legislation, these fees are shared between the municipality, the Region and the Ministry of Transportation. Under the AMPS program, the Town would establish the fees to be imposed on late/defaulted penalties, and all such fees remain with the Municipality. The fees are intended to recover costs associated with administering the process. As such, there is an anticipated increase in the revenue anticipated to result from fees relating to late/defaulted penalties.

It is important to understand the rationale for these fees being in place. When a person fails to respond to a parking ticket or penalty notice issued, there are administrative costs associated with the municipality having to complete administrative steps to receive license plate information, send out reminder notices, etc. These administrative costs can increase the longer a ticket remains unresolved, up to and including sending the license plate and related information to the Ministry for the plate denial process to be applied. These costs should not be absorbed by the tax base revenue for situations where someone has failed to respond, after receiving a penalty notice.

For the most part, any increased revenue amount relating to fees will be attributed to Bylaw Enforcement Revenues and will be intended to offset the expenses related to AMPS.

It is premature to specifically predict what the revenue implications will be with respect to the redistribution of the above noted fees. In the meantime, Staff are confident that the revenue impact will adequately cover the anticipated operating costs.

Upon implementation, Staff will monitor and evaluate the activity relating to late fees and incorporate any revenue adjustments into the associated budget.

At this point staff are not anticipating a requirement for additional staffing resources, as it is the intent to implement the program with existing staff, save and except the need for a third-party hearing officer.

Any possible staffing implications will be carefully considered, as the program rolls out, in the next few years.

Penalty Amounts (Set Fines)

Under the current POA system, municipalities are required to obtain approval from the Ministry of the Attorney General to implement new or to revise existing set fines (including parking fines.) Under the AMPS program, this requirement is eliminated as Council will approve any new, or revise any existing, penalty (fine), at the time of passing the bylaw and applicable Schedules to the AMPS Bylaw.

While Council has directed staff to increase set fines for parking from \$10 to \$40, staff will be proposing adjustments to existing parking fines based on benchmarking, enforcement and operational challenges and to ensure fines are appropriate amounts.

Consultation and Communications

Staff have reviewed numerous municipalities in their development of an AMPS program including but not limited to: Municipality of Hastings Highlands, Township of Leeds and the Thousand Islands, City of Hamilton, City of Waterloo, City of Kingston, City of Brampton and the Town of Georgina.

Council Strategic Priorities

Council's Strategic Priorities have three Goals - Sustainable, Engaged and Livable. There are a total of 12 targets with the three Goals.

This report aligns with the sustainable goals within the targets:

Target T2 – municipal services review and evaluation

Target T5 – improve technology

Target T6 – promote more open communication

Supporting Documentation

Appendix 1 – AMPS Process Flow Chart

Report Respectfully Submitted and Prepared By:

Jennifer Willoughby, Director of Legislative Services/Clerk

Reviewed By:

Denyse Morrissey, CAO

