



**Subject: Proposed Draft By-law Non-Parking Administrative Penalty System**

**To: Council**

**From: Community Safety & Enforcement Department**

Report Number: 2021-150

Meeting Date: May 25, 2021

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### **Recommendation:**

That Community Safety and Enforcement Department Report 2021-150 be received for information.

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### **Purpose:**

The purpose of this report is to provide Council with a draft Administrative Monetary Penalty System By-law for non-parking regulatory by-laws.

The draft by-law will be presented to Council for information and review at this meeting, with deliberation to take place at the next meeting scheduled for June 14, 2021.

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### **Background:**

Historically, municipalities have relied on the Provincial Offences Act for enforcement of regulatory by-laws. Historically, Port Colborne has done likewise.

Municipalities are moving away from this Act to pass By-laws that can now be regulated through the Administrative Monetary Penalty System. The City has used this system since 2014 to enforce parking violations.

The Administrative Monetary Penalty System, in relation to enforcement of parking violations, has proven to be successful, cutting down on administration, court time and has provided a source of revenue for the City.

Since 2017, the *Municipal Act* allowed municipalities to expand the use of the Administrative Monetary Penalty System to include all regulatory by-laws. Section 434.1 of the *Municipal Act* also allows a municipality to require a person, subject to such

conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law passed by the municipality.

The proposed new system will allow the City to change from a court-based system to a system of issuing administrative fees. The maximum penalty for an offence under the Administrative Monetary Penalty System is \$1,000.

An Administrative Monetary Penalty System enables a municipality to resolve disputes to by-law infractions in a timely manner and in a less formal setting than a Provincial Offences Court. Additionally, the Administrative Monetary Penalty System allows the municipality to recover all or any portion of the cost of administering the dispute.

A primary advantage of this system is that it allows the court system to focus on more serious offences.

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## **Discussion:**

The Administrative Monetary Penalty System provides for the following processes when appeals are requested:

- Screenings and/or Hearings would be held within municipal facilities.
- More opportunity for early dispute resolution as all disputes must proceed through a screening process.
- The hearing process, if required, is held before an independent body.
- If fines are not paid, they can be added to municipal taxes.

Once approved by Council, this by-law will provide a process, the staff and procedures involved in the issuance of an Administrative Monetary Penalty System Notice and the manner in which a person may contest the penalty notice.

- 15 days to pay the amount or ask for an appointment to meet with the appointed screening officer/committee.
- Once the 15 days has expired and no request has been made to appeal to the screening officer/committee the notice is final and binding.
- The screening process must take place before a hearing can be requested and should be held within 30 days.
- If the screening officer/committee finds sufficient and legitimate reasons to do so they may reduce the penalty or cancel the notice or confirm the penalty.
- If a resolution cannot be reached the person can request that the matter be heard by an independent hearing officer.
- The hearing process should take place within 1 to 3 months. The hearing officer can reduce, cancel, or confirm the penalty notice amount. The hearing officer's decision is final and binding. There is no appeal.

- No fee may be charged in relation to a review by the screening or hearing process.

The owner is notified in writing of the final penalty and that if the penalty is not paid by a specific date identified within the letter, it will be added to their property taxes.

In addition to the passing of the Administrative Monetary Penalty System the following items will have to be addressed.

- I. Amend all necessary City of Port Colborne regulatory by-laws. For example:
  - a. Lot Maintenance
  - b. Noise
  - c. Snow Removal
  - d. Tree

A further report will come before Council that will be prepared jointly by the Clerk's Office and Community Safety and Enforcement identifying all of the appropriate by-laws and changes required for implementing the Administrative Monetary Penalty System.

- II. Producing City of Port Colborne penalty notices.

- III. Updating of the City's website online payment and persons to apply for an appeal to screening or hearing process.

### **Internal Consultations:**

In order to complete this report, by-law division staff consulted with staff from the City's Clerk's Division and the Corporate Services Department – Financial Services.

### **Financial Implications:**

The City has recently upgraded its ticketing system to ensure an effective and efficient system. The proposed Administrative Monetary Penalty System will migrate into that system. Some additional costs will be incurred for the production of penalty notices, etc. Staff anticipate these costs will be offset by the penalty fees imposed.

Additionally, staff recommend that the fees outlined below which are currently in place for parking violations be extended into the new process. They are as follows:

Item	Fee
Screening Non-appearance Fee	\$50.00
Hearing Non-appearance Fee	\$100.00
Late Payment Fee	\$15.00
Insufficient Funds	\$30.00

Staff have reviewed the short form wording and set fines previously established and approved by the Regional Senior Justice, Ontario Court of Justice and increased them by 2% per year, at the discretion of City Council.

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### **Public Engagement:**

This report has been available for viewing on the City of Port Colborne web page.

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### **Conclusion:**

The process outlined within this report will provide an effective and efficient method to enforce City by-laws. The City will benefit financially through this system.

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### **Appendices:**

- a. Draft copy of the City of Port Colborne Non-Parking Administrative Monetary Penalty System By-law

Respectfully submitted,

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### **Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.