



TOWN OF
HALTON HILLS
Working Together Working for You!
REPORT

TO: Mayor Lawlor and Members of Council

FROM: Susie Spry, Manager of Enforcement Services

DATE: November 19, 2024

REPORT NO.: ADMIN-2025-001

SUBJECT: New AMPS Regulatory (Non-Parking) By-law

RECOMMENDATION:

THAT Report No. ADMIN-2025-001 dated November 19, 2024 regarding the New AMPS Regulatory (Non-Parking) By-law be received;

AND FURTHER THAT Council adopt the New AMPS Regulatory (Non-Parking) By-law attached as Appendix A with an effective date of April 1, 2025.

KEY POINTS:

The following are key points for consideration with respect to this report:

- Administrative Monetary Penalty System (AMPS) as an alternative dispute process to the traditional POA (Provincial Court) system.
- The implementation of AMPS for Parking offences has produced a faster resolution process for the public; administrative efficiencies for staff and a reduction of costs to the municipality.
- Expansion of AMPS program to include enforcement of the Town's regulatory (non-parking) by-laws.
- Through an on-line public survey, staff received over 80 responses both for and against the implementation of AMPS for non-parking matters.
- Staff are preparing the implementation and enforcement of the new AMPS Regulatory (Non-Parking) By-law for April 1, 2025 and are seeking Council approval of the draft By-law.

BACKGROUND AND DISCUSSION:

In 2017, Section 434.1(1) of the *Municipal Act, 2001* was introduced which allows municipalities to impose administrative penalties when a person has failed to comply with a municipal by-law. In 2022, Council approved Report No. ADMIN-2022-0001

which approved the implementation of an administrative penalty process for parking offences. After the court closures caused by the COVID-19 pandemic, POA courts did not resume in-person parking trials; therefore, the implementation of AMPS for parking offences was critical.

At present, enforcement staff administers the Town's regulatory by-laws through Notices of Violation, Orders to Comply, and, when necessary, by laying charges and prosecuting through the Provincial Offences Act (POA) court. Due to a lack of judicial and court resources, combined with only half a day each month allocated for Town matters, the Provincial Offences Act (POA) system is unreliable and leads to significant delays in resolving issues. Implementing the Administrative Monetary Penalties (AMP) system for enforcing the Town's regulatory by-laws would immediately relieve some of the pressure on the POA court system. This change would allow the Town to focus its limited court time on cases that must be heard in court, such as offences under the Planning Act (including zoning and illegal land use).

Currently, when a Municipal Law Enforcement Officer files POA charges for a violation of a municipal by-law (excluding parking offences), voluntary payments and trial disputes are managed through Halton Court Services. The Town has access to one half-day of scheduled court time each month, contingent upon the availability of judicial resources, which amounts to approximately 1.5 hours of court time. This represents a 50% reduction from pre-COVID-19 pandemic levels, during which the Town did not have to share its half-day court time with other municipalities and agencies.

During our scheduled court dates, we address procedural issues, accept guilty pleas, and conduct short trials. Halton Court Services requires that longer trials have at least one judicial pre-trial (JPT) before a trial can be scheduled. Scheduling the mandatory JPT can take up to 3 to 4 months due to limited judicial resources. Similarly, scheduling pre-trial motions can also take several months. As a result, while simple matters can be accommodated during the Town's quarterly half-day sessions, longer matters may take 18 months or more to resolve. This delay poses a risk of dismissal under Section 11(b) of the Charter, which guarantees the right to a fair and speedy trial.

The chart below illustrates the time differences in resolving cases under the POA system compared to the AMP system. In POA court, it is common for defendants to request multiple adjournments for various reasons, such as lacking legal representation, being out of the country for an extended period, or to review disclosure. These adjournment requests are considered valid by the court and are typically granted.

Process of POA vs. AMPS

PON ISSUED	PENALTY NOTICE ISSUED
<ul style="list-style-type: none">• FIRST APPEARANCE (ADJOURNMENT)• TO BE SPOKEN TO (ADJOURNMENT)• TO BE SPOKEN TO (PLEA, JPT ORDERED, TRIAL DATE SET OR ADJOURNED)• MATTER RESOLVED TOTAL NUMBER OF DAYS SINCE PON WAS ISSUED: 18 MONTHS TO 3 YEARS	<ul style="list-style-type: none">• PAY OR DISPUTE• ATTEND SCREENING (VOLUNTARY PAYMENT OR BOOK A HEARING)• ATTEND HEARING (DECISION IS FINAL)• MATTER RESOLVED TOTAL NUMBER OF DAYS SINCE PENALTY NOTICE WAS ISSUED: 30 DAYS

The Municipal Act outlines that the purpose of an administrative penalties system is to help the municipality encourage compliance with its by-laws. Additionally, it specifies that the amount of any administrative penalty should not be punitive and must not exceed what is reasonably necessary to promote compliance.

Enforcement services staff received approximately 300 more complaints last year compared to the previous year. The increase in complaints further proves the significant need to address both major and minor contraventions outside of the POA court process. Expanding the Administrative Monetary Penalty (AMP) system to include enforcement of the Town's regulatory by-laws does not limit the staff's ability to pursue other enforcement methods. The Provincial Offences Act (POA) court system will still be available to address more serious violations if necessary.

Key features of the expanded AMPS program for regulatory by-laws (non-parking)

Historically, POA charges are used as a last resort by enforcement staff. The initial approach typically involves providing a written or verbal notice of non-compliance and, if feasible, engaging directly to encourage compliance. If these initial steps are unsuccessful, or if enforcement staff believe they are unlikely to be effective—such as in cases requiring immediate action, instances of repeated non-compliance, or situations where voluntary compliance is unlikely—enforcement staff may issue orders (depending on the by-law) or proceed with charges.

Typically, less serious violations are single incidents, such as the dumping of refuse that breaches the Community Standards By-law; or failing to take adequate action in response to enforcement staff's efforts to promote compliance, like encroachments on town property. In contrast, more serious violations are often ongoing, with alleged offenders unresponsive to enforcement efforts aimed at encouraging voluntary compliance, choosing to disregard official orders.

Enforcement staff have observed a growing number of serious violations that take advantage of the financial benefits of non-compliance and the delays related to the enforcement of the Provincial Offences Act (POA). For instance, bringing large volumes of fill onto a property without obtaining a site alteration permit could function as an illegal transportation terminal, allowing the operation to profit for as long as possible. In order

to develop a successful administrative penalty system for the Town's regulatory by-laws, significant effort has been dedicated to establishing a system of penalties that encourages compliance with various violations of differing severities.

Penalty Amounts

Based on the information provided above, staff have developed an AMPS system for the Town's regulatory by-laws that:

- adjusts penalties based on the type of violation;
- implements graduated penalties;
- considers whether the violation is ongoing or continuing; and
- provides opportunities for penalty reduction if efforts toward compliance have been made.

Continuing Contraventions

Where the contravention continues or is ongoing (such as failing to comply with an order or operating without a licence) the penalties apply for each day the contravention occurs or continues. This ensures that compliance continues to be encouraged and that a penalty is not treated as a licence fee for the continuation of illegal activities. In staff's experience, continuing contraventions most often occur where there are strong financial incentives to operate illegally, such as an unlicensed salvage yard, contrary to the Town's Business Licensing By-Law.

Penalty Reduction

All penalties can be reduced by as much as 75% to the minimum penalty amount outlined in each by-law schedule if a Screening or Hearing Officer determines that a lesser penalty is sufficient to encourage compliance. In conducting this evaluation, the Screening Officer must consider whether compliance has been achieved or if significant efforts toward compliance are being made, as well as any financial benefit gained by the alleged offender as a result of non-compliance.

The option to request a fine reduction serves two important purposes. Firstly, it allows the Screening or Hearing Officer to ensure that the fine amount is appropriate, and secondly, it provides an additional incentive for promoting compliance.

In accordance with Ontario Regulation 333/07 and section 434.1 of the *Municipal Act, 2001*, a municipality must pass a by-law to establish an Administrative Monetary Penalty System (AMPS) program. A draft by-law for the establishment of AMPS for the Town's regulatory offences is included as Schedule A of this report. This draft by-law contains provisions relating to penalties, notice, financial management, screening, hearings, and other general regulations.

Ontario Regulation 333/07 mandates that a municipality implementing any parking administrative penalty system establish the following:

- Policies and procedures to prevent political interference in the administration of the system.

- Guidelines to define what constitutes a conflict of interest in relation to the administration of the system, including measures to prevent such conflicts and address them if they occur.
- Policies and procedures regarding financial management and reporting.
- Procedures for filing and processing public complaints related to the administration of the system.

While Ontario Regulation 333/07 does not specifically apply to non-parking AMPS programs, staff have updated the existing AMPS policies to ensure consistency across the expanded program. These updated policies are included in Schedules B to G of this report for consideration. Following the adoption of these updated policies, staff will implement administrative and financial protocols, screening and hearing procedures, software changes, and communication and public education tools in preparation for the AMPS program expansion.

STRATEGIC PLAN ALIGNMENT:

This report identifies a safe and welcoming community as one of the Town's Strategic priorities.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement has been conducted as follows: Online Survey.

Survey Results

A survey ran from September 23, 2024 to October 29, 2024 to engage Halton Hills residents on whether or not they would support the implementation of AMPS for the Town's regulatory by-laws. Participants were provided the opportunity to review the proposed regulations and to offer feedback on all aspects of the draft regulations. Findings from the survey indicated 77% of respondents would be in favour of implementing AMPS for non-parking regulatory violations. When asked if respondents believed the implementation of AMPS for non-parking matters would encourage compliance, 20% indicated it would be very effective with another 56% conveying it would be somewhat effective.

71% of respondents believe the proposed administrative penalties for the Town's regulatory By-law are fair and reasonable. Respondents answered with 81% satisfaction with the available options for requesting a screening review of a penalty notice with 77% of respondents identifying the screening and hearing process for contesting a penalty notice as fair and accessible. Only 43% of the survey participants "liked" the finality of

the Hearing Officers decision while 31% indicated that they neither “liked or disliked” the finality of the Hearing Officer's decision.

When asked to indicate if there were any concerns about the administrative fees imposed for late payments, non-appearances and for NSF payments, 63% responded no.

Some of the positive comments received at the end of the survey include;

- Glad to see it coming to Halton Hills
- It is a brilliant idea to relieve the burden from the court system to address offenders who continue to take advantage of an overburdened court system
- Excellent. We need everyone to follow our by-laws
- Thank you for keeping Halton Hills beautiful!
- I love this!...thank you!
- Looks like this will help keep our town nice, safe and healthy. Thank you

Some of the negative comments received include;

- Leave people alone, Things are so expensive now a fine only creates hardship for the people
- Can be a problem when there are people who use by-laws as a means to antagonize neighbours
- Abusive use of the by-law requires re-course
- No....just looks like a cash grab
- People who do not have the internet, how are they learning about AMPS?
- This seems like too many rules and the proposed payments may be way too harsh for certain residents.

While the comments differ in opinion, Staff are confident the implementation of AMPS for the Town's regulatory by-laws will provide a fair and efficient approach to address community concerns.

INTERNAL CONSULTATION:

During the process of developing an AMPS by-law for the Town's regulatory by-laws, the Town Clerk, Town Solicitor, and staff from Communications were consulted.

FINANCIAL IMPLICATIONS:

This report will be funded through an existing approved budget source.

The costs associated with the implementation of the AMPS program for regulatory by-laws were approved with the 2025 budget. This includes the hiring of a full-time screening officer as well as an AMPS coordinator. These positions will be responsible for facilitating the scheduling and screenings of all AMPS penalty notices (parking, ASE

and regulatory). It is expected that the AMPS for regulatory by-laws will provide an increase in revenue generated from the volume of notices and related fees.

Reviewed and approved by,

Valerie Petryniak, Town Clerk & Director of Legislative Services

Chris Mills, Chief Administrative Officer