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Report To: General Government Committee

Date of Meeting: May 5, 2025 **Report Number:** LGS-016-25

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Reviewed By: Mary-Anne Dempster, CAO

By-law Number: **Resolution Number:**

File Number: L1000-60-E

Report Subject: Administrative Penalty System – Municipal Law Enforcement

Recommendations:

1. That Report LGS-016-25, and any related delegations or communication items, be received;
2. That Staff investigate and report back to Council with the requirements to replace existing parking fines with a system of Administrative Penalties, including an estimate of overhead costs; and
3. That all interested parties listed in Report LGS-016-25, and any delegations be advised of Council's decision.

Report Overview

The purpose of this report is to provide Council with information related to Administrative Penalty System (“APS” – also referred to as Administrative Monetary Penalty System or “AMPS”) as an alternative to the imposition of fines under the Provincial Offences Act. Staff are seeking direction from Council to fully explore the requirements of transitioning to APS so that Council can determine whether using such a system would be in the best interests of the Municipality.

1. Background

Introduction

- 1.1 The Municipality of Clarington has enacted many by-laws to regulate a wide variety of activities.
- 1.2 Familiar examples of municipal regulatory by-laws include the Traffic By-law, Property Standards By-law, Site Alteration By-law, and Responsible Pet Owners’ By-law.
- 1.3 Two legislated options exist for Municipalities to enforce these regulatory By-laws; a fine based system established under the *Provincial Offences Act, R.S.O. 1990, c. P.33* (POA), or an Administrative Penalty System (APS) as provided for in the *Municipal Act, 2001*.
- 1.4 The primary method of enforcement for by-law infractions is the imposition of a fine through the issuance of a ticket.
- 1.5 Fines are imposed under the authority of the Provincial Offences Act (the “POA”). Under this system, the administration of fines is heavily dependent on the Provincial Offences Court.
- 1.6 An alternative enforcement system established under an Administrative Penalty System provides for greater local control over process, timelines, fine recovery, and improved compliance when compared with the current provincial model.

2. Current Challenges with POA

Overburdened Court System

- 2.1 The POA Court System processes charges arising from Provincial Statutes as well as Municipal By-laws.

- 2.2 This includes charges resulting from the Highway Traffic Act (i.e. speeding, careless driving), Environmental Protection Act, Occupational Health and Safety Act, Dog Owners' Liability Act, and Trespass to Property Act.
- 2.3 All regulatory By-law charges enacted by Municipalities are managed through the same court proceedings, including Municipal Parking Infraction Notices ("PINS").
- 2.4 The broad spectrum and volume of matters being heard before POA Courts has created added pressure on the administration, with sustainable capacities far exceeded with the addition of Municipal PINS.

Cost

- 2.5 There are significant costs associated with the administration of the provincial court system. Courtroom facilities, wages for Justices of the Peace, court staff administration, as well as the Prosecution team currently retained through the Region of Durham contractual agreements.
- 2.6 Additional fiscal consideration must be given to staff time required to prepare briefings and evidence packages for Prosecutors, serve summons where necessary, and attend court for matters to be heard before a Justice of the Peace.

High Rate of Unpaid Fines and Non-Compliance

- 2.7 Finally, fines relating to matters resolved through the POA Courts are allocated to the Municipality only once court administration has collected the funds and deducted their costs from the total. Accused who fail to pay voluntarily or after being sent to MTO for plate denial, results in a substantial number of unpaid fines left owing to Municipalities.

Threats to the Integrity of the Justice System

- 2.8 Often, a defendant will request a trial to dispute their PINS simply as a means to test limited court resources, believing their matter may be dismissed for delay or other administrative reasons.
- 2.9 Utilizing the court system as the dispute resolution system for a \$30 parking ticket, requires a disproportionate use of judicial resources, and takes away from more serious matters being heard by the Court.

Current Model for POA Fines

- 2.10 Enforcement and prosecution of Clarington regulatory by-laws is currently undertaken through the administration of the Provincial Offences Act (POA). This includes the

commencement of proceedings under various provisions of the POA. The collection of fines is also overseen by the provincial court system.

Ticket Aging Process

- 2.11 Under this system, when a parking violation is observed, an Officer will issue a PIN (i.e. a ticket). A reduced fine option is available if payment is made within seven (7) days of issuance. On the eighth (8th) day, the fine increases to the set fine for the charge. On the sixteenth (16th) day, a Ministry of Transportation (“MTO”) search is performed, and the registered owner of the offending vehicle is mailed a Notice of Impending Conviction (“NIC”). The fine remains at the set fine amount.
- 2.12 If the registered owner further ignores the NIC, and the fine remains unpaid, on the forty-sixth (46 day), the Municipality sends a Certificate Requesting Conviction (“CRC”) to the POA courts, to move forward with an administrative conviction. From there, the courts will issue a final notice to the accused, with details of the charge including additional fees to be applied.
- 2.13 If non-compliance continues at this point, the POA courts register plate denial against the vehicle’s licence plate through MTO, and additional fees are then applied.

Payment Details

- 2.14 While the Municipality still has carriage of the PIN, payment can be received through online payment or in person at the Municipal Administrative Centre. Payments for PINS that have moved to the POA Courts are paid back to the Municipality monthly, in the amount of only the set fine for the charge. Additional fees added to the final amount of the ticket are retained by the POA Courts or MTO.

Disputing a Parking Infraction Notice

- 2.15 During the time when PINS remain in the custody of the Municipality, an appointment with a Municipal Law Enforcement (“MLE”) staff member can be made to informally review the circumstances of the ticket. During this review, MLE staff have the discretion to reduce, rescind, or uphold the charge(s) according to an objective and unbiased review of the facts. Anyone remaining dissatisfied with the outcome of this review, can further dispute the charge by requesting a trial, in a formal POA Court setting. The courts notify the Municipality of scheduled trials.

Disputing a PIN when Carriage is held by POA Courts Administration

- 2.16 The Municipal Law Enforcement Officer (“MLEO”) who issued the PIN is required to attend trial and provide evidence to support their charge, and the accused has an opportunity to testify. These matters are prosecuted through representation from the

Region of Durham prosecution team, and a Justice of the Peace rules on a verdict. Outstanding fine payments that result from the court outcome, are managed and collected by the POA Courts.

Appeals and Conviction Re-openings

- 2.17 Currently, a statute of limitations does not exist for the re-opening of PINS, with the only requirement for accused being an appeal to a justice for a strike out of the conviction within 15 days of becoming aware of the conviction, so the matter(s) can be heard as an opportunity for an alternate outcome.
- 2.18 This gap in the legislative process often results in unpaid convictions made in years prior, being granted an opportunity to enter a plea or request a trial. This subsequently requires the issuing Officer to attend court and provide evidence, presenting administrative challenges for the Municipality.

3. Administrative Penalty Systems (APS)

What are APS?

- 3.1 Administrative Penalty Systems (“APS”), are a more streamlined process being increasingly employed by Municipalities as an alternative to the POA Court system, for handling minor by-law violations.
- 3.2 The system allows Municipalities to issue penalty notices similar to a ticket, and through their own dispute resolution process, handle appeals and receive payment for outstanding fines, in a timely manner, outside of the POA Court system.

What is the Legal Authority for APS?

- 3.3 Since 2006, municipalities in Ontario have been authorized by the Municipal Act to implement APS for by-law infractions as an alternative to the traditional POA Court system of fines.
- 3.4 The dollar amount of an APS is at the discretion of the Municipality, provided that it does not exceed the amount reasonably required to promote compliance with the by-law under which the APS is imposed.
- 3.5 For APS that apply to the parking, standing or stopping of motor vehicles, specific requirements and parameters have been prescribed by regulation. This includes the requirement to develop certain policies and procedures, to comply with certain standards to ensure the fairness and integrity of the APS, and to appoint personnel to perform specific key roles.

What are the advantages of using APS?

- 3.6 As the population in Clarington continues to grow, so does the demand to increase communications to the public regarding parking regulations, and the need to increase efficiencies such as with the newly replaced downtown parking meter replacement and software upgrade.
- 3.7 Incorporating an Administrative Penalty System for parking infractions allows for a streamlined process from issuance through dispute resolution, all managed by the Municipality.
- 3.8 Pre-determined timeframes offer a faster resolution of violations, often within weeks instead of months or years as with the POA Courts.
- 3.9 The Administrative Penalty System is more accessible for the accused by removing the formal court processes and replacing it with an informal quasi-judicial screening and hearing process.
- 3.10 In 2024, over 1900 parking tickets were pushed from Clarington's administration to the POA court system in the form of trial requests or administrative convictions, making up 28.4% of the total Clarington PINS for the year.
- 3.11 By issuing APS instead of PINS, the Court system isn't burdened, and court time can effectively be reserved for more serious matters.
- 3.12 Administrative penalties are not intended to be punitive in nature, but the potential to establish a tiered penalty structure, provides consequences for noncompliance that is more likely to motivate a change in behaviour.

Other Municipalities Using APS

- 3.13 Within Durham Region, Oshawa, Ajax, and Whitby have all implemented APS, with Oshawa leading the way through much of Ontario, having first implemented an APS system in 2008. The City of Peterborough and the Town of Cobourg also employ differing examples of an APS systems for by-law enforcement.
- 3.14 Larger municipalities to the west operating under APS further included the City of Markham, the City of Vaughan, the City of Richmond Hill, the Town of Oakville, the Township of King, the Town of Halton Hills, and the City of Toronto.
- 3.15 Based on the advantages outlined above, and the successful use of APS by other municipalities, Clarington should investigate whether the use of APS would be the right choice for us.

4. Recommended Actions

Proposed Next Steps

- 4.1 The first step is to obtain Council approval to explore the full requirements of transitioning to an Administrative Penalty System. That is the purpose of the recommendations in this report.
- 4.2 Following acceptance in principle by Council, Staff would then work to establish practical timelines and financial costs associated with generating the necessary agreements with MTO under their Authorized Requester Program.
- 4.3 Staff would concurrently determine technology requirements including changes or transitional needs for enforcement software.
- 4.4 Findings would then be reported back to Council for further direction and approval.

Transition Considerations

- 4.5 It is recommended that Clarington adopt the APS system and initially apply it to the Traffic By-law since parking violations represent a significant portion of bylaw infractions and are also relatively simple to resolve.
- 4.6 Through the streamlined process, APS can help to reduce the burden on the provincial court system, while providing a faster and more accessible, less formal, resolution process than what is currently employed under the traditional court system.
- 4.7 After implementation, throughout the ongoing review process of the APS system, further evaluation can be assessed to determine the potential for additional by-laws to transition to the APS system, either in part or in whole.

Procedural Requirements for Implementation

- 4.8 When Administrative Penalty Systems are employed, the judicial system is removed and POA Courts are no longer involved in any aspects of the enforcement process.
- 4.9 To ensure fairness, the Province introduced Ontario Regulation 333/07, s.7, to require that specific standards be developed prior to implementation of an Administrative Penalty System to ensure consistency, equity, and transparency, within the administration of the system.
- 4.10 The following requirements are needed to move forward with the implementation of an Administrative Penalty System:

- a) Policies and procedures to prevent political interference in the administration of the system;
 - b) Guidelines to define what constitutes a conflict of interest in relation to the administration of the system, to prevent such conflicts of interest and to redress such conflicts should they occur;
 - c) Policies and procedures regarding financial management and reporting; and
 - d) Procedures for the filing and processing of complaints made by the public with respect to the administration of the system.
- 4.11 Furthermore, by restructuring enforcement regulations under a revised system which excludes POA Court processes, a by-law is required to identify jurisdiction for enforcement, as well as establish a revised offence and penalty system.
- 4.12 As recommendations have indicated, beginning with the Municipality's Traffic By-law is advised before moving on to other by-laws to enforce under an APS. Consequently, the Municipality's Traffic By-law would also require an amendment or complete replacement.

Further Investigation

- 4.13 Although staff have a strong concept of what this project entails, time will be required to adequately research and determine the precise needs to transition and adopt this system.
- 4.14 Upon approval from Council, staff would begin communications with MTO to determine the requirements, timelines, and costs associated with implementation. This may involve both ongoing and transitional costs.
- 4.15 Research into the most appropriate choice for enforcement software would also need to be examined. Staff would need to determine if our current parking enforcement software provider, Gtechna, can adequately support the transition from POA tickets to an APS system, or if an alternate software company may be more favourable.
- 4.16 This would further require time to implement any software technologies, and include a testing period, before going live and full adoption of the APS system.
- 4.17 Staff would like the opportunity to explore costing and technological requirements and/or upgrades that may be required to implement an (LPR) to the APS system.
- 4.18 Forecast potential ticketing efficiency increases i.e. in school zones and generate estimates of possible changes to revenue.

- 4.19 The implementation of an administrative penalties system, specific to parking, requires the addition of two new positions. A Screening Officer, and a Hearing Officer. A closer examination is needed to determine if these positions are best managed internally, or if it is more practical to contract this service out.
- 4.20 A communications plan would be required to establish appropriate timelines and messaging to inform the public about the intention to transition to APS, as well as how this system will impact them.

Public Consultation

- 4.21 Details of a plan for public consultation will be determined through the direct assistance of the Communications Team.
- 4.22 It will be imperative to work closely with the Communications Team, to ensure that adequate information is conveyed to the public in advance of implementation and provide ongoing updates that will illustrate the final outcome to residents.

5. Financial Considerations

- 5.1 Details of the costs and potential revenues associated with the transition to an Administrative Penalty System will be investigated and presented to Council as part of a future phase of this initiative.

6. Strategic Plan

- 6.1 The implementation of an Administrative Penalty System would allow Clarington to manage the issuance of penalty notices, the appeal process, and fine recovery process internally, which provides for direct control over municipal processes.
- 6.2 By transitioning to APS, Clarington can reduce costs associated with the current POA system, and improve fine recovery rates, contributing to financial sustainability and cost management.
- 6.3 APS offers a streamlined process for handling minor by-law violations, leading to faster resolution and improved compliance. This supports the strategic plan's objective of maintaining public order and safety through effective enforcement mechanisms.
- 6.4 Administrative Penalty Systems reduce the burden on the provincial court system, allowing judicial resources to be reserved for more serious matters. This creates a more efficiently aligned use of public resources (POA).
- 6.5 As part of the implementation process, a public consultation plan to inform residents about the transition to APS would be created. This supports Clarington's commitment to

transparency and public engagement, ensuring that residents are aware of and understand the changes.

- 6.6 As indicated, the proposal involves evaluating the potential of leveraging technology to better improve service delivery by means of upgrading current enforcement software and considering additional tech resources to better improve efficiencies.
- 6.7 The proposed implementation plan includes a phased in approach to APS, starting with parking violations and potentially expanding to other by-laws. This methodical approach aligns with the need for ongoing evaluation to ensure successful outcomes.

7. Climate Change

Not Applicable.

8. Concurrence

Not Applicable.

9. Conclusion

It is respectfully recommended that Report LGS-016-25, and any related delegations or communication items, be received;

That Staff investigate and report back to Council with the requirements to replace existing parking fines with a system of Administrative Penalties, including an estimate of overhead costs; and

That all interested parties listed in Report LGS-016-25, and any delegations be advised of Council's decision.

Staff Contact: Natalie King, Municipal Law Enforcement Supervisor, 905-623-3379 ext. 2110 or nking@clarington.net.

Attachments:

Not Applicable

Interested Parties:

There are no interested parties to be notified of Council's decision.