



Town of Newmarket
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Amended AMPS By-law Staff Report to Council

Report Number: 2020-23

Department(s): Legislative Services

Author(s): Flynn Scott, Manager of Regulatory Services

Meeting Date: April 27, 2020

Recommendations

1. That the report entitled Amended AMPS By-law dated April 27, 2020 be received; and,
2. That Council approves the proposed amendments to the AMPS By-law 2019-62; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to present Council with next steps regarding the enforcement of pre-existing regulatory by-laws under the Administrative Monetary Penalty System.

Background

On September 30, 2019, Council adopted the Administrative Monetary Penalty System (AMPS) By-law for parking-related offences. The AMPS model was introduced to assist over-burdened courts by streamlining ticket disputes and allowing municipalities a more efficient way to enforce by-laws. On March 2, 2020, Council adopted the Mobile Business Licence By-law with an amendment to the AMPS By-law to permit enforcement through administrative penalties.

As new by-laws are brought forward and current by-laws are amended, staff propose to include them under the AMPS By-law to establish set fines and adhere to the administrative processes under AMPS.

Discussion

Due to the circumstances of the COVID-19 pandemic, current by-laws enacted for the Town are facing increasing challenges with enforcement, as most by-laws are administratively handled by the Provincial Offences Act through the court system. With the court system currently unavailable until further notice, the ability to ensure compliance with various Town by-laws becomes compromised.

In addition to the current pandemic circumstances, Town staff has also recognized that using the current Provincial Offences Act and court system for enforcement purposes poses significant challenges by delaying compliance rates. For example, if an unlawful business (such as a Body Rub Parlour) refuses to shut down, a charge laid against that business may take up to one (1) year to receive a conviction, ultimately allowing the business to continue operating until resolved and often resulting in a fine of only \$250-\$750. This is a very lengthy process lacking strength in being an effective deterrent. Similarly, if a property contains an unlawful accessory dwelling unit (ADU) where the tenants are causing a nuisance to the surrounding community, a charge may take up to one (1) year to receive a conviction and the fine amount is often not an effective deterrent to achieve resolve within a timely manner. However, by implementing currently enacted by-laws under the AMPS model, the municipality will have the proper tools necessary to pursue the alleged offender and ensure that fines are issued to resolve the matter within 30-60 days.

Cost Recovery through AMPS

When a ticket is issued under AMPS, there are several options available to a municipality to recover unpaid or outstanding fines.

Option #1 – Ministry of Transportation Ontario (MTO)

The Town currently has an agreement with the MTO pursuant to parking-related offences. This allows the Town to collect parking fines through plate denial. However, other agreements are permitted to be established between a municipality and the MTO for the collection of fines (via plate denial) for any Ontario licence plate-related offences. This would include any Town by-law where a licence plate can be utilized. Examples include the Mobile Business Licence By-law provisions, any unlawful garbage dumping involving a vehicle, any animal control violations observed where the owner leaves in a vehicle, any parks violations where the owner leaves in a vehicle, and so forth. It is Town staff's intention to obtain this agreement which will include all by-laws under AMPS be used, where applicable.

Option #2 – Debt applied as Municipal Taxes

The AMPS By-law clearly specifies that any fees or fines unpaid will be applied as municipal taxes for cost recovery. While this option is, for the most part, applicable to a person that owns property within the Town of Newmarket, the Town is also permitted to enter into agreements with other municipalities to allow for the collection of fines. For

example, if a person receives a ticket in Newmarket and owns property in another municipality, the Town can establish an agreement to allow a Newmarket ticket to be collected through their municipal taxes.

This process is very similar to an existing agreement throughout York Region, which allows fines under the Provincial Offences Act to be collected throughout all York Region municipalities.

Option #3 – Collection Agency

Through consultation with the Director of Financial Services, staff has confirmed an agreement exists between the Town and a private collection agency. There are no fees or costs incurred by the Town in utilizing this service: the collection agency's fee is added to the debtor directly. In the event that a person does not pay their AMPS fine and all other means of collection have been exhausted, Town staff would rely on a collection agency to recover fines and fees through this method.

For reference, this method is no different than the court's process currently in place for convicted violations. If a conviction is upheld in court and a person does not pay the fine by the specified date, the courts will forward the fines to a collection agency for recovery.

By-law Amendments Proposed

It is relevant to note that Town staff was preparing to transition all by-laws under the AMPS model in a staggered approach throughout 2020 and 2021. However, due to the current circumstances of the COVID-19 pandemic and the reduction in service for court processes, staff are recommending one amendment to include the following by-laws under AMPS:

- Accessory Dwelling Units By-law 2013-13;
- Animal Control By-law 2016-53;
- By-law 2002-151:
 - Schedule 1 (Adult Entertainment Parlours);
 - Schedule 2 (Adult Video Stores);
 - Schedule 7 (Body Rub Parlours);
 - Schedule 15 (Newspaper Boxes);
- Clean Yards By-law 2017-63;
- Clothing Donation Bins By-law 2016-33;
- Fireworks By-law 2015-18
- Property Standards By-law 2017-62;
- Second Hand Goods Shops By-law 2008-79;
- Sign By-law 2017-73; and
- Waste Collection By-law 2017-19.

If adopted, the proposed by-law amendments will enable staff to more effectively respond to complaints within the community in a timely manner. However, it is important

to note that Town staff will continue to use education as the primary means for compliance and will continue to use educational measures throughout the COVID-19 pandemic. Staff will only take enforcement action in the event that education is deemed to be ineffective.

Conclusion

Town staff is recommending an amendment to the AMPS By-law to include fine schedules for various by-laws previously enacted by Council. These by-laws will now be part of the AMPS model for administrative and cost recovery purposes.

Business Plan and Strategic Plan Linkages

This report aligns with the Rev-it-up recommendations for improving administration and service levels within the Town of Newmarket.

Consultation

Collaboration between all levels of staff has been critical in amending and proposing the by-law amendment before Council.

The Town's Financial Department was consulted to obtain information pertaining to cost recovery options.

The Town's Prosecutor was also consulted to understand the court collection process.

A comprehensive communications plan will be proposed to the Town's Communications Department for a roll out strategy, which will be shared with Council directly.

Human Resource Considerations

Following the adoption of the AMPS By-law, additional responsibilities were designated to existing staff to review ticket disputes through the Screening Review process. The Town also moved forward with hiring external Hearing Officers on a contract basis to adjudicate ticket disputes that escalate to a Hearing Review process.

Since the Town has already established the AMPS model with the initial adoption of the AMPS By-law, there are no further resources required.

Budget Impact

The AMPS model is projected to increase revenue based on the early, set, and late payment accruals. By implementing the AMPS model to various by-laws currently enforced, staff predict a significant revenue increase. However, it is relevant to note that staff has taken a stronger educational approach to enforcement during the COVID-19 pandemic. Due to the uncertainty regarding the length of time the pandemic may last,

Staff are unable to predict revenue projections at this time. Staff will report back in one year to provide a comprehensive review of the success of the AMPS program.

Attachments

Attachment #1 – AMPS Amendment By-law

Attachment #2 – Amended AMPS By-law 2019-62, Schedule A

Approval

Lisa Lyons, Director of Legislative Services/Town Clerk, Legislative Services

Esther Armchuk, Commissioner, Corporate Services

Contact

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