



Town of Newmarket
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Administrative Monetary Penalty System for Parking Offences Staff Report

Report Number: 2018-13

Department(s): Legislative Services

Author(s): Kiran Saini, Deputy Town Clerk

Meeting Date: June 11, 2018

Recommendations

1. That the report entitled "Administrative Monetary Penalty System for Parking Offences" dated June 11, 2018 be received; and,
2. That staff be directed to implement an Administrative Monetary Penalty System in Q1/Q2 2020; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

Administrative Monetary Penalties are an increasingly common type of fine levied against an offender. These types of fines are adjudicated and disputed outside of the court system, which means that the courts' time is freed to deal with more serious matters.

Since 2007, municipalities have had the authority to implement an Administrative Monetary Penalty System (AMPS) for parking related matters, and municipalities such as Brampton, Markham, Mississauga, Oshawa, Richmond Hill, and Vaughan have all established AMPS. The courts are trending away from hearing parking matters, as these are viewed as less serious, and because municipalities now have the tools to develop in-house adjudication and dispute mechanisms (i.e., AMPS programs).

Accordingly, this report reviews the benefits and drawbacks of establishing AMPS for parking offences for the Town of Newmarket.

Purpose

The purpose of this report is to seek Council approval to initiate an Administrative Monetary Penalty System program for parking offences to be implemented in Q1/Q2 2020.

Background

In March 2017, Council passed a resolution to advocate for legislative amendments to allow for technology-based enforcement of offences [such as Automated Speed Enforcement Systems (ASES)] to be administered through an administrative monetary penalty system (**Attachment A**).

Following the adoption of the Safer School Zones Act, staff issued an information report in July 2017 that provided a high-level overview over the potential for use of an Administrative Monetary Penalty Systems (AMPS) for Automated Speed Enforcement Systems (ASES) in York Region. It was also noted at this time that while the legislation does not currently permit the use of AMPS for ASES, Town staff were part of a York Region Working Group tasked to explore options for developing an AMPS framework that could be adapted should AMPS be permitted for administration of ASES.

Staff continue to develop options for potential future collaboration, and anticipate reporting to the Regional Chief Administrative Officers group by the end of Q3 2018.

Staff in the York Region Working Group are also working closely with other Ontario municipalities to advocate for the use of AMPS for ASES, and staff will continue to advise Council of any changes to this matter.

Discussion

At its meeting in August 2017, Council expressed a desire to move forward with an AMPS program in the Town. The Town currently has the authority to implement AMPS for any By-laws passed under the Municipal Act. This means that by-laws such as the parking control by-law, animal control by-law, and taxi licensing by-laws could all be administered using AMPS. Given Council's preliminary direction to move forward with an AMPS program, this report seeks approval from Council to initiate an AMPS program in Q1/Q2 2020 to administer the Town's parking control program.

What is an AMPS program?

As stated in Corporate Services Information Report – Legislative Services Information Report Number 2017-11:

“AMPS is a municipally administered program that replaces the current Court system with a faster, more flexible and customer focused adjudication process for by-law offences. One of the main objectives of an AMPS program is to create a simple, accessible, fair and cost-effective system of dealing with by-law violations.

AMPS was introduced as a means to reduce the current Court backlog. The Town of Newmarket receives limited Court time, which is caused by backlog and the Court's requirement to provide time to all nine York Region municipalities. The Region prosecutes all Provincial Offences Act (POA) matters on behalf of the Town, and once Court proceedings are initiated, the Town is subject to the Court's scheduling pressures.

In general, more serious offences take precedence over minor offences (for example, parking violations) and consequently non-serious matters may not be scheduled within a reasonable timeframe. This means that parking violations often being voided or withdrawn due to the time between the ticket issued and the Court date scheduled, which ultimately results in lost revenue for the municipality. Under an AMPS program, there are increased opportunities for early dispute resolution and the ability to recover costs associated with the administration of the system."

Since AMPS allows the municipality to recover costs associated with administering the program, the Town has reviewed the below municipalities and proposed a fee structure that is in line with the average fees being administered. **Table 1** below shows the potential administrative fees that could be imposed on an individual if they failed to follow the appropriate dispute mechanisms, or ignored their ticket.

Table 1 - Municipal Comparators of Administrative Fees for Parking Offences

Administrative Fee	Proposed fees for Newmarket	Brampton	Markham	Mississauga	Oshawa	Vaughan
MTO* Registered Owner Search Fee Incurred when the municipality conducts a Registered Vehicle Owner Search with the Ministry of Transportation.	\$10	\$10	\$10	\$10	\$10	\$10
Late Payment Fee Incurred if a ticket is not paid by the established date.	\$25	\$15	\$25	\$25	\$15	\$50
Screening Review Non-Appearance Fee Incurred if scheduled appointment is missed.	\$50	\$50	\$50	\$50	\$50	\$106
Hearing Review Non-Appearance Fee Incurred if scheduled appointment is missed.	\$100	\$100	\$100	\$100	\$100	\$106

* Ontario Ministry of Transportation

Which By-laws would be administered under the AMPS program?

By-laws that are passed under the authority of the Municipal Act may be administered under AMPS; however, at present it is recommended that only the parking control by-law be implemented using AMPS in Q1/Q2 2020. Further expansion of licensing by-laws and other regulatory by-law may also be considered in the future. Additionally,

staff is undertaking a review of its licensing regime, and will require the necessary software to support and manage any tickets issued for licensing violations.

What is required for an AMPS program?

In order to effectively initiate an AMPS program in the Town, the following are a few of the processes would need to be completed:

- 1) Develop the required framework, which would include, but is not limited to: drafting new by-laws, policies and procedures, and determining administrative penalties.
- 2) Review and update the Town's Parking By-law.
- 2) Conduct a thorough budget analysis, and if required, request additional funding for capital costs. Anticipated capital costs would include software and technology upgrades.
- 3) Recruitment for a Screening & Hearing Officer; and budget for any associated costs.
- 4) Complete an education and communication program for the public on the new method of resolving parking tickets.

New Process to Resolve Parking Tickets

Screening Officer

Should a person wish to dispute their parking ticket, they may schedule an appointment with the Screening Officer. The Screening Officer will meet with residents to cancel, reduce or affirm the parking ticket amount. This is a process that is currently completed by Legislative Services staff at the counter.

Hearing Officer

Should a person wish to appeal the Screening Officer's Decision (equivalent to a person requesting a court date), he/she may schedule an appointment with the Hearing Officer. Many mid-sized municipalities using the AMPS program typically maintain a roster of Hearing Officers who rotate on a scheduled shift. Hearing Officers are recruited to work for a municipality based on their legal background and/or expertise, such as a retired Justice of the Peace or Paralegal. A Hearing Officer will need to be retained on a contract basis to be paid on a per diem rate to administer the hearings.

Benefits and drawbacks of an AMPS program

Benefits of the AMPS program

- 1) It is an abuser-pay system
AMPS is an abuser-pay system that reduces the burden on Newmarket taxpayers because the Court dispute process is eliminated. Additionally, the abuse of dispute process used by individuals trying to "cheat the

system” by using delay tactics by requesting a trial for minor parking offences are significantly reduced through the implementation of AMPS.

- 2) **The Courts are freed for more serious matters**
There is the potential to have fewer voided parking tickets because the Town will not be restricted by the limited Court time available for parking offences. AMPS is more flexible than the current system because staff can schedule additional Screening and Hearing reviews as required, resulting in minor matters being resolved in a more efficient manner.

Additionally, the Courts are trending away from hearing parking and minor licensing/by-law matters. Proactive implementation allows staff the time to plan implementation and manage the project more effectively.

- 3) **Enhances customer service in Newmarket**
To some individuals, going to a Court, may be considered intimidating. Having a municipally-run program allows the Town to continue to provide exceptional customer service in a more resident-friendly environment that is less intimidating than a Court setting.
- 4) **Improved fine collection process for the Town**
Municipalities that have implemented AMPS have realized a positive impact on their revenue because: a) there is improved fine collection process; b) administrative fees associated with the administration of the program can be recovered; and, c) fewer parking tickets are voided or withdrawn due to the Town having limited access to Court time.
- 5) **Potential future expansion with other By-laws & with York Region**
At this time, it is recommended that AMPS be implemented for parking matters in Q1/Q2 2020, and phase in other regulatory by-laws at a later time. Once the program has been established in the Town, it will also allow for the potential expansion of a collaborative program between York Region municipalities. Should ASEs be permitted to be administered under AMPS, then the Town would be in a good position to readily implement the required changes because the AMPS framework would already be established.

Drawbacks of the AMPS program

- 1) **Decision is final**
The Town cannot revert to the current system for administering parking offences under the courts once an AMPS Program is implemented.

- 2) Court processes continue to exist for matters already appealed
Currently the Town has allotted court docket time every other month. This means that approximately 15 matters are heard every month. The Town has 50 parking and 25 by-law matters that are still pending and need to be tried through the court system.
- 3) Potential for perception of bias
Under an AMPS program, the Town is required to have Screening and Hearing Officers. There is the potential for a perception of bias because both "appeal" mechanisms would be located within the Town. However, this perception can be overcome through the conflict of interest policies and procedures.

Conclusion

Should Council approve staff initiating an AMPS program in the Town, staff will begin drafting the necessary by-laws and budget requests for Council's approval.

Upon receiving direction from the York Region Working Group and staff working with the OTC, staff will report back to Council on the next steps for the use of ASEs in York Region, and the feasibility of administering ASEs through AMPS once the necessary legislative amendments are made.

Business Plan and Strategic Plan Linkages

This report relates to the well-equipped and managed link of the Town's Community vision.

Consultation

The cities of Brampton, Markham, Mississauga, Oshawa, and Vaughan's By-laws were all reviewed as part of this report. Staff from Finance and Engineering Services were also consulted in this report.

Human Resource Considerations

Should Council approve AMPS in the Town, there would be human resource considerations for the positions of Screening and Hearing Officers.

Staff would consider converting the responsibilities of the First Attendance Officer into the role of a Screening Officer. Based on staff's research, Hearing Officers are paid on a per diem basis, and their rate usually ranges between \$400 and \$500. In the Financial Impact, staff are assuming that the Hearing Officer would hold hearings once a month, which would result in an expense of \$6,000, if the Hearing Officer was paid \$500 per diem.

Should Council direct staff to move ahead with AMPS for parking offences, staff would also consider purchasing a laptop for the Hearing Officer's use. Hearings could be accommodated, or held within one of the current meeting spaces, and therefore additional office furniture is not expected to be required.

Budget Impact

Should Council direct staff to move forward with implementing an AMPS program in the Town of Newmarket, Table 2 outlines the anticipated financial impact.

Table 2 - Financial Impact of Current and Proposed Systems for Parking Offences

Current System (Provincial Offences Act)		Proposed System (Administrative Monetary Penalty System)	
Total Current Revenue	\$337,231	Total Proposed Revenue	\$475,939
Total Current Expenses	\$85,634	Total Proposed Expenses	\$139,106
Revenues - Expenses	\$251,597	Revenues - Expenses	\$336,333

Based on the above information, the net financial impact of the proposed Administrative Monetary Penalty System would result in a favourable impact of \$85,236.

In both the Current and Proposed Systems, the revenue breakdown includes items such as tickets paid at full value (i.e., the ticket was not disputed), tickets paid when they are disputed (i.e., the ticket value has been reduced), and tickets paid when individuals renew their Ontario Vehicle Permit with the Ministry of Transportation (i.e., the ticket remained unpaid, and the Town sent the ticket to the Ministry for collection of payment). Under the Proposed System (Administrative Monetary Penalty System), the revenue breakdown includes administrative fees that may be imposed at certain points in the process, for example, a late fee that may apply if someone fails to pay their ticket on time.

In both the Current and Proposed System, the expenses that have been accounted for in the total include position salaries, the cost of ordering new tickets, printing and mailing of notices, the parking software costs, and the costs for searching for a vehicle's registered owner information.

Table 2 uses data and information from 2017, and makes certain assumptions as to at what point during the process individuals will pay or dispute their parking tickets, and as to what point any administrative fees may be applicable to such individuals. Detailed breakdowns of the revenue and expense lines have not been provided because the Town's previous parking software was used to extract the 2017 data, and this software has limitations with regards to being able to produce detailed data (i.e., the Town is not able to follow the "life" of a particular ticket from the date it was issued to the time that same ticket was paid). The software cannot differentiate between an individual paying their ticket right after they received it and an individual paying their ticket after having disputed it.

Staff implemented new parking software in November 2017, and is currently investigating whether more detailed reporting can be produced using the new software.

In addition to software reporting limitation, the Town does not necessarily receive all parking revenue in the same year tickets were issued because many parking tickets can take years to collect payment from. Since the Town has more control over the process because the Town is not relying on Court time to adjudicate parking tickets, it is anticipated that revenue may be received faster by the municipality under the Proposed System.

Attachments

Attachment A - Safer School Zones Act Council Resolution

Approval



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



Esther Armchuk, Commissioner of Corporate Services
Corporate Services

Contact

For additional information please contact Kiran Saini, Deputy Town Clerk at 905-953-5300 extension 2203 or ksaini@newmarket.ca



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Attachment A

March 31, 2017

The Honourable Steven Del Duca
Minister of Transportation
Queen's Park
77 Wellesley Street West
Ferguson Block, 3rd floor
Toronto, ON M7A 1Z8

The Honourable Yasir Naqvi
Attorney General
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

Dear Sirs:

RE: Bill 65, Safer School Zones Act, 2016

I am writing to advise that the above referenced resolution sent from the Regional Clerk was considered at the Committee of the Whole meeting held on March 20, 2017.

Council, at the regular meeting held on March 27, 2017 adopted the following recommendations:

That the correspondence from Mr. Christopher Raynor, Regional Clerk regarding Bill 65, Safer School Zones Act, 2016 be received and endorsed;

And that the Town of Newmarket Council supports the passing of Bill 65, Safer School Zones Act, 2016.

I have enclosed a copy for your information.

Yours sincerely,

Kiran Saini
Deputy Clerk

KS:lm



