



The Corporation of the Township of Huron-Kinloss

Staff Report

Report Title: Administrative Monetary Penalty System Update

Date: Apr. 3, 2024

Report Number: BLE-2024-04-6

Department: Municipal By-law Enforcement

File Number: C11 BLE 24

Prepared By: Heather Falconer, Municipal By-law Enforcement Officer and Jennifer White, Manager of Legislative Services/Clerk

Attachments: Draft AMPS By-law, Schedule 'A' to draft by-law, AMPS Flowchart, Draft Policies; Conflict of Interest, Financial Hardship, Public Complaint, Financial Management & Reporting, Prevention of Political Interference

Recommendation:

THAT the Township of Huron-Kinloss Committee of the Whole hereby receives for information Report BLE-2024-04-6, as prepared by Heather Falconer, Municipal By-Law Enforcement Officer and Jennifer White, Manager of Legislative/Clerk;

AND FURTHER THAT Committee of the Whole supports in principle creating an administrative monetary penalties system for the Township to facilitate enforcement of designated by-laws as outlined in the report;

AND FURTHER THAT Staff be directed to bring forward the required by-laws and policies to implement the system;

AND FURTHER THAT Staff be directed to solicit Screening and Hearing Officer services.

Background:

Committee of the Whole [Report BLE-2023-04-12](#) on April 03, 2023, provided an overview of the Administrative Monetary Penalties System (AMPS). Staff were directed to draft a By-Law to Establish a Process for Administrative Monetary Penalties (attached).

The Administrative Monetary Penalties System is intended to streamline the enforcement process of municipal by-laws. AMPs are authorized through section 434.1 of the *Municipal Act, 2001, S.O. 2001, c. 25*. AMPS transfers by-law disputes from the courtroom to the municipality using Screening and Hearings Officers who can modify, cancel, or affirm penalties.

The defendant can appeal the decision of a Screening Officer to a Hearing Officer for an additional review. The decision of a Hearing Officer is considered final and binding. The Hearing Officer is an independent and impartial person.

Municipalities are using AMPS to provide a time efficient resolution process and increase compliance with specific municipal By-laws. An overview of the process is attached (Huron-Kinloss Flowchart).

Discussion/Analysis/Overview:

Schedule "A" of the drafted by-law lists the by-laws included for AMPS. The AMPS By-law will cover all by-laws that currently have set fine amounts for infractions;

- Animal Control/Kennel Licensing
- Clean and Clear Yards
- Feeding Wildlife and Feral Animal
- Lawn Watering
- Noise Control
- Open Air Burning
- Off Road Vehicle
- Prohibit the Piling of Snow and Ice on Highways
- Property Standards
- Public Nuisance
- Tree Preservation

Four by-laws that do not have approved set fines are included. These by-laws were selected to increase community safety or compliance:

- Clean and Clear Yards
- Golf Car By-Law
- Swimming Pool Fence
- Prohibit or Regulate Signs

The implementation of AMPS will allow the Township to issue Monetary Notices for by-law infractions. The Monetary Notice amounts reflect the by-law's current set fine amounts. For more serious matters or for repeat offenders, the option to issue a Part I or Part III (to appear in court) is still available.

All mandatory policies set out in O. Reg. 333/07, s. 7, were developed and have been attached for review. These policies are:

- Financial Hardship Policy
- Conflicts of Interest Policy
- Financial Management and Reporting
- Public Complaints Policy
- Political Interference Policy

Supplementary internal procedures, a webpage and a tracking/invoicing system were developed to support the policies and AMPS if implemented.

Current Constraints

Cost of Screening and Hearing Officers

Report BLE-2024-04-6 discussed options to jointly share the Screening and Hearing Officer services with other Bruce County municipalities for neutrality and cost saving purposes. The Township reached out to the Bruce County municipalities and no other municipalities have implemented AMPS at this time.

Larger municipalities that have adopted AMPS have appointed a Staff person to the position of the Screening Officer. Though cost effective, Township staff do not recommend this approach. This is due to the increased workload and lack of capacity of existing staff members, the dynamics of small-town settings and the constraints associated with a close-knit community. Screening Officers have a judicial role with requirements of unbiased, fair and independent decision making. Requiring staff to take on this role, is likely to impact the dynamics of fulfilling their current job roles, and relationships developed within the community.

While no Bruce County municipalities have implemented AMPS, interest has been expressed, and it may be possible to have shared services, and therefore shared costs respecting the Officers at a future time.

Staff recommend advertising for the services of Screening and Hearing Officer. Both positions would be on an as-needed-basis and dependent on the number of Monetary Notices that are appealed. Council previously received information that average costs for these services in other municipalities are \$250.00 per half day or \$500.00 per day flat rate.

Program Cost

The cost associated with Part 1 Certificates are legal and court costs. It is anticipated that Screening and Hearing Officer expenses will have similar legal costs to Part 1 Certificates. Though there are no court costs with AMPS, expenses are expected to be on par with The Provincial Offences Act process.

The financial amount a Penalty Notice with applicable fees becomes a balance due to the municipality and may be applied to a property tax roll if issued to a person who owns property within Huron-Kinloss.

Traditionally the Township's approach to enforcement is one of education first. If unresolved, the issue would proceed with issuing Part I or Part III Certificates. In most cases compliance is achieved through education, which is reflected by the minimum number of fines issued. If Council wishes to support a more disciplinary stance in By-law Enforcement, this would reflect a change in service provision.

Future of AMP System in Ontario

The Province of Ontario passed Bill 157, Enhancing Access to the Justice Act, 2024 which includes an amendment to the Fire Protection and Prevention Act, 1997 permitting enforcement through an AMPS. Staff anticipate the province will continue to increase opportunities for enforcement through AMPS and may require municipalities to institute AMPS to relieve the current backlog within the court system.

Options for consideration:

- 1) THAT Committee of the Whole supports in principle creating an administrative monetary penalties system for the Township to facilitate enforcement of designated by-laws as outlined in the report, and further that Staff be directed to bring forward the required by-laws and

policies to implement the system, and further that Staff be directed to solicit Screening and Hearing Officer services.

- 2) Receive the report for information only and further direct Staff to continue by-law enforcement activities within existing policies, procedures, and systems.
- 3) Receive the report for information and support the creation of an administrative monetary penalties system in principle, and further direct Staff to delay implementation of the system until additional municipalities implement the system to provide the opportunity for shared services or until such time as the province issues further direction on AMPS.

Staff recommend Option 1.

Financial Impacts:

Penalty revenue and administrative fees are 100% retained by the Township. Financial impacts of Screening and Hearing Officer services are unknown at this time.

Performance Measurement:

N/A

Strategic Area:

- | | |
|---|--|
| <input type="checkbox"/> Embrace a thriving rural lifestyle | <input checked="" type="checkbox"/> Enhance Municipal Service Delivery |
| <input type="checkbox"/> Prepare for Inclusive Growth | <input type="checkbox"/> Ensure Financial Stability |

Strategic Goal: Strive for continuous improvement and increased efficiency

Respectfully Submitted By:

Heather Falconer, Municipal By-law Enforcement Officer and Jennifer White, Manager of Legislative Services/Clerk.

Report Approved By:

Jodi MacArthur, Chief Administrative Officer