



## Staff Report

**Report Title: Overview of Administrative Monetary Penalty System**

**Prepared By: Chris Cleave, Fire Chief and Heather Falconer, By-Law Enforcement Officer**

**Department: By-Law Enforcement**

**Date: Apr. 3, 2023**

**Report Number: BLE-2023-04-12**

**File Number: C-11 BLE23**

**Attachments: POA Flow Chart  
AMP Flow Chart**

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### **Recommendation:**

That the Township of Huron-Kinloss Committee of the Whole hereby receives for information Report Number BLE-2023-04-12 and further directs staff to bring forward a draft By-Law to Establish a Process for Administrative Monetary Penalties.

### **Background:**

The Municipal, Act 2001, S.O. 2001, section 434.1 permits a municipality to adopt an Administrative Monetary Penalty (AMP) program for most municipal by-law offences. Zoning is currently not included as the Planning Act requires amendment before an AMPs will be permitted to apply. AMPs only apply to by-laws enacted under the Municipal Act.

Administrative monetary penalties (AMPs) are a civil (rather than quasi-criminal) mechanism for enforcing compliance with regulatory and by-law requirements. They are an effective, quick, clear, and tangible way for regulators to respond to infractions of the law.

In practice, a monetary penalty is assessed and imposed in the form of a notice with a prescribed date and time for payment. The AMP does not replace our current systems but would be another option in addition to. An Enforcement Officer could opt to apply an AMP to a designated offence or could still use the Provincial Offences Act (POA) tickets. In comparison, set fines for Township by-laws under the POA need to be approved by the courts. As where AMPs are approved and adopted by Council through by-law and are applicable to the same offences where set fines apply and/or to other by-law infractions where set fines may not have been established.

Because AMPs are imposed without a court hearing, other protections are put in place (e.g., unbiased decision maker, right to be heard through a screening and hearing process) to ensure that the process for imposing a penalty is fair and in accordance with the principles of law. AMP systems have been upheld by the courts as appropriate for matters under provincial and municipal control.

An AMP Screening Officer would be a person appointed by Council to conduct an initial review of an AMP case and decide on the validity of the circumstances. A person who receives an AMP may within the 15 days of receiving a penalty notice request a Screening Review.

During the Screening Review the Screening Officer can modify, cancel, or affirm the penalties. In most municipalities the Screening Officer is a staff member. During the Screening Review, evidence by both the charging officer and recipient of penalty notice could be reviewed. The Screening Officer may affirm, amend, extend the due date, or cancel an AMP. Where a person fails to attend at the time and place scheduled for a review by the Screening Officer as requested, the Screening Officer may, without a screening review, as permitted by the Statutory Powers and Procedures Act, affirm the Penalty Notice.

After the Screening Review, if the person is unsatisfied with the outcome, they can request to be seen by a Hearing Officer. An AMP Hearing Officer would be a person appointed by Council to conduct a trial like review of an AMP case. The person disputing the AMP will be asked to present their case first - followed by the issuing officer. The Hearing Officer will review both cases and consider any material (evidence) submitted when deciding. A Hearing Officer's decision is final. A Hearing Officer would need to be a third party.

There may be options to jointly share the Hearing Officer services with other Bruce County municipalities for neutrality and cost saving purposes. Staff research determined other municipalities are paying approximately \$250.00 per half day or \$500.00 per day flat rate.

The Municipal Act allows for unpaid AMPs to be applied to the tax roll of the property in which the offence is in relation to and is collected in the same manner as permitted by the Municipal Act for other unpaid taxes and fees.

### **Discussion:**

When an individual violates a municipal by-law, the current system treats it as an "offence" to be prosecuted under the POA. At present POA prosecutions are our only option.

The AMP program is an alternative to using POA tickets and would allow the Township to by-pass using the provincial court system for routine enforcement matters and would allow for monetary penalties to be imposed by a council for a contravention of a Township by-law in which they have enforcement jurisdiction over.

Provincial Offences Act prosecutions can be both a costly and time-consuming process. Currently the Ontario Court of Justice is significantly backlogged with court cases which can equate to up to two years of waiting before a matter is heard. POA court cases are heard on a priority basis and generally municipal by-law offences are considered low priority in these circumstances.

AMP programs are becoming widely accepted as the modern approach to regulation in Ontario. There is a growing belief that using AMPs for straightforward by-law infractions, which are currently prosecuted as provincial offences, more accurately reflects the regulatory nature of the by-law. It also distinguishing them from more serious provincial and criminal offences, while providing an appropriate and cost-effective level deterrence and enforcement.

In order establish an AMP system the following steps would need to be taken.

1. Council approves in principle the implementation of an AMP system at which time staff would then need to review and identify all infractions that could/should be included in the AMP by-law.
2. Staff would draft and present to council the AMP system policies and AMP By-law. The By-law would detail all the identified offences along with their associated monetary penalty as well as the by-law would appoint the required Screening and Hearing Officers. The policies implemented would in essence be the roadmap on how the AMP program is managed and delivered.
3. Staff would then draft and implement procedures in relation to the AMP program. These procedures would include the processes necessary for the administration of the program, a registry for the collection of penalties, the process for appealing the AMP including the use of the appointed Screening Officers and Hearing Officers, review dates and collection processes.
4. Communications to the public about the program implementation

Adopting an AMP system is a more appropriate and viable way to deal with matters under Townships by-laws. The resources required to enforce infractions of municipal by-laws under the POA can be significant. An AMP system would provide a more sensible and efficient means to ensure we can conduct enforcement where voluntary compliance has proven unachievable.

A sample flowchart outlining the AMP process and the POA Process is attached to this report.

Average cost of hiring a Solicitor to prosecute POA Offences is a minimum of 200.00 per hour.

Attached below for additional detailed information on the AMP system please reference the link to the Municipality of Clarence-Rockland.

[https://www.clarence-rockland.com/en/vivre-ici/Sanctions\\_administratives\\_p\\_cuniaires\\_SAP\\_.aspx](https://www.clarence-rockland.com/en/vivre-ici/Sanctions_administratives_p_cuniaires_SAP_.aspx)

**Financial Impacts:**

Penalty revenue and administrative fees are 100% retained by the Township.  
Potential for cost savings on legal services.

**Strategic Alignment / Link:**

We are an accessible community that offers opportunities for everyone by having services and amenities nearby.

**Respectfully Submitted By:**

Chris Cleave, Fire Chief and Heather Falconer, By-Law Enforcement Officer

**Report Approved By:**

Mary Rose Walden, Chief Administrative Officer