

Staff Report



Corporate Services Department

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REPORT TO: Finance and Corporate Services Committee

DATE OF MEETING: May 12, 2025

SUBMITTED BY: Kristin VanDerGeld, Manager of Licensing, 519-904-5605

PREPARED BY: Kristin VanDerGeld, Manager of Licensing, 519-904-5605

WARD(S) INVOLVED: All

DATE OF REPORT: April 17, 2025

REPORT NO.: COR-2025-199

SUBJECT: Integrating Licensing By-laws into the City's Administrative Monetary Penalty System

RECOMMENDATION:

That a By-law be enacted to amend By-law 2024-01 as well as Chapters 553 and 599 of the City of Kitchener Municipal Code, to facilitate the transition of enforcement and adjudication of Licensing violations to the City's Administrative Monetary Penalty System in accordance with Corporate Services report COR-2025-199.

REPORT HIGHLIGHTS:

- The purpose of this report is to outline the plan to amend relevant by-law regulations and facilitate the transition of adjudicating and resolving tickets for Licensing By-law violations.
- The shift from the traditional Provincial Offences Administration (POA) court system to the City's existing Administrative Monetary Penalty System (AMPS) serves to enable the city to more efficiently and effectively recover costs associated with fines and charges.
- This report supports the delivery of core services.

BACKGROUND:

In 2019, the City's By-law Enforcement Division launched the Administrative Monetary Penalties (AMPS) program to manage the adjudication and resolution of penalty notices (formerly referred to as tickets) issued for parking by-law violations. The AMPS program removed the adjudication process from the traditional Provincial Offences Court and introduced a municipally administered dispute resolution system. This system allows individuals to request a screening of their penalty notice, and if they are unsatisfied with the decision, they can request a hearing with an independent Hearing Officer, appointed by Council.

The feedback received has consistently indicated that the AMPS process has been beneficial for the City, offering an efficient, flexible, and adaptable means for residents to resolve penalty

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notice disputes. Following this success, in 2024, the By-law Enforcement Division expanded the AMPS program to cover the City's non-parking by-laws, excluding Zoning. As with the earlier transition, this extension has proven to be an effective dispute resolution mechanism.

REPORT:

The City's Business Licensing By-law, Chapter 599, governs more than 25 types of commercial business operations within the City. Additionally, in August of last year, Council passed a new Lodging House By-law, Chapter 553, to provide opportunities for more affordable housing types while prioritizing health and safety.

At present, when staff's efforts to achieve compliance with these Chapters are unsuccessful, legal action may be necessary. This could involve initiating a prosecution under the Provincial Offences Act.

These proceedings are managed through the Region's Provincial Offences Court, which falls under the jurisdiction of the Region of Waterloo. Although the Provincial Offences process has been effective for adjudicating prosecutions, it does present certain challenges. The high volume of provincial and municipal offence tickets, combined with limited court availability and resources, lead to backlogs and put pressure on the court system. These factors may cause delays and, in some cases, result in the withdrawal of minor provincial and municipal matters. While the Province has indicated legislative changes to streamline the judicial appointments process in an effort to reduce the existing backlog of cases before the Courts, at this time, implementing details, including timing are unknown.

Implementing licensing by-laws into AMPS would;

- provide a more informal and less intimidating approach to resolving by-law enforcement issues for individuals,
- faster resolution of violations and reduces the burden on the judicial system,
- penalties can be tailored to the severity of the infraction (e.g., scaled fines),
- penalties collected can be reinvested into enforcement or compliance programs, though the primary goal would remain deterrence, and
- more cost effective by saving both the municipality and respondent time and legal expenses.

Given the above and considering the success of the City's transition of parking and non-parking by-law violations from the provincial court system to the AMPS program since 2019, staff recommend that transitioning the City's Licensing By-laws be the next logical step.

To support this transition, several by-law amendments are necessary. These amendments, which require Council's consideration, are outlined as follows:

1. Administrative Monetary Penalty System By-law #2024-01

To issue penalty notices for by-law violations, the specific provisions of the by-law that constitute an offence must be designated under the AMPS By-law, along with the corresponding penalty amounts. The parking and non-parking by-laws enforced by the By-law Enforcement Division

have already been designated and listed in Schedule "A" of By-law 2024-01. The proposed amending by-law will add the penalty schedules for Chapters 553 and 599 to the existing Schedule "A," thereby designating the necessary provisions and specifying the applicable penalty amounts.

The penalty amounts proposed for Chapter 553 (Lodging Houses) range from \$1,000 for a first offence to \$1,500 for second and subsequent offences. These amounts are considered appropriate and proportional, serving as an effective deterrent—particularly given that the cost of an initial business licence is \$750. Moreover, the operation of lodging houses directly impacts the health and safety of occupants and surrounding communities. As such, ensuring compliance through meaningful penalties is essential to support safe, well-managed housing environments and to discourage non-compliance that could pose risks to residents and the public.

The penalty amounts for proposed for Chapter 599 (Business Licensing) range from \$300 for a first offence to \$500 for second and subsequent offences for violations considered to pose a relatively low level of risk. For more serious violations—those with greater implications for public safety, consumer protection, or nuisance control—penalties range from \$500 for a first offence to \$750 for second and subsequent offences. These penalty amounts are intended to reflect the potential impact of non-compliance on the community and ensure that businesses operate responsibly, maintaining standards that protect the public and minimize disruptions to surrounding areas.

2. Chapter 553 – Lodging House

The proposed by-law will include a provision authorizing staff to add any unpaid penalties, deemed to be in default after the due date, to the property taxes of the associated lodging house—provided that the individual operating the lodging house also owns the property. This approach is consistent with provisions found in most other enforcement by-laws within the City of Kitchener.

3. Chapter 599 – Business Licensing

The proposed by-law will introduce the necessary penalty provisions into Chapter 599, which currently don't exist, as it was enacted before the City transitioned to using AMPS for by-law enforcement. These provisions are required to authorize the issuance of AMPS penalty notices, supplementing the existing authority to issue Provincial Offences Notices.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

It is expected that any costs associated with the proposed transition can be accommodated within the current year's Operating Budget. Any potential budget impacts in subsequent years will be addressed during the 2026 Operating Budget planning process.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

PREVIOUS REPORTS/AUTHORITIES:

There are no previous reports/authorities related to this matter.

REVIEWED BY:

Gloria MacNeil, Director, By-law Enforcement
Erin Mogck, Associate City Solicitor

APPROVED BY:**ATTACHMENTS:**

Attachment A – Draft By-law to amend By-law 2024-01 and Chapter 553 and 599.