



**City of Kingston  
Report to Administrative Policies Committee  
Report Number AP-24-009**

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**To:** Chair and Members of the Administrative Policies Committee  
**From:** Paige Agnew, Commissioner, Growth & Development Services  
**Resource Staff:** Curtis Smith, Director, Licensing & Enforcement Services  
**Date of Meeting:** February 8, 2024  
**Subject:** Administrative Monetary Penalties – Business Licensing

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**Council Strategic Plan Alignment:**

Theme: Policies & by-laws

Goal: See above

**Executive Summary:**

The *Municipal Act* provides a municipality the authority to require a person to pay an administrative monetary penalty (AMP) if the municipality is satisfied that the person has failed to comply with a by-law. AMPs are an effective tool for responding to nuisance behaviour and are a tangible intermediate response to by-law violations.

In this report, staff are recommending that the application of AMPs be extended to By-Law Number 2006-213, “A By-Law to License, Regulate and Govern Certain Businesses” (the “Business Licensing” By-Law). The expanded use of AMPs will promote consumer protection, the health and safety of residents and compliance with the City’s Business Licensing By-Law and give Licensing Agents/By-Law Enforcement officers an additional, intermediate level response to non-complaint behaviour. No amendments to existing by-laws outside of those required for the addition or administration of AMPs are recommended as part of this report.

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**Recommendation:**

**That** the Administrative Policies Committee recommends to Council:

**That** By-Law Number 2020-69, “A By-Law to Establish a Process for Administrative Penalties”, as amended, be further amended, as per Exhibit A to Report Number AP-24-009; and

**That** By-Law Number 2006-213, “A By-Law to License, Regulate and Govern Certain Businesses”, be amended as per Exhibit B to Report Number AP-24-009.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,  
Growth & Development Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Jennifer Campbell, Commissioner, Community Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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**Options/Discussion:**

In 2017, the *Municipal Act* was further amended by the *Modernizing Ontario's Municipal Legislation Act, 2017*, which, among other things, expanded the authority of a municipality to establish a system of Administrative Monetary Penalties (AMPs) that assist the municipality in promoting compliance with its by-laws. Subsection 434.1 (1) of the *Municipal Act, 2001* provides municipalities with the authority to require a person to pay an AMP if the municipality is satisfied that the person has failed to comply with a by-law.

AMPs are an alternative to commencing proceedings under the *Provincial Offences Act* (POA) to enforce by-laws. AMPs differ significantly from POA proceedings as they operate using sequential processes, and strict deadlines for payments and reviews, to ensure that decisions are made in a timely manner.

Under the City's AMP system, by-law officers can give a penalty notice if the officer has reasonable grounds to believe that the person has contravened a provision of a designated by-law. The penalty notice advises the person of the contravention and requires payment of a monetary penalty. The person to whom the penalty notice is given then has the choice of paying the penalty or requesting a review of the penalty notice, which is conducted by the Screening Officer, a role currently fulfilled by a law clerk in the City's Legal Services Department. The Screening Officer's decision can be appealed to a Hearings Officer, an impartial third party contracted by the City. Both the Screening Officer and the Hearings Officer have the power to cancel, reduce or extend the time for payment of an AMP. The decision of the Hearings Officer is final.

**Expanding the Use of Administrative Monetary Penalties**

There are currently 12 by-laws to which AMPs are applied. Staff are recommending that Council designate one additional by-law to which the Administrative Penalties By-Law applies.

A full list of the recommended AMPs and their associated penalty amounts can be found in Exhibit C - Recommended Administrative Monetary Penalties.

**By-Law Number 2006-213, A By-Law to License, Regulate and Govern Certain Businesses**

Recommended AMPs include:

- Carrying on a business without a license
- Obstructing, hindering or interfering with an inspection

The proposed recommended AMPs are to promote consumer protection, the health and safety of residents and compliance with the City's Business Licenses By-Law. As there are already POA Set Fines established for these offences (Exhibit C), the creation of AMPs provides an additional, less time-consuming and invasive mechanism to resolve compliance issues. AMPs

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and Set Fines for this By-Law will be further reviewed when the revised Business Licenses By-Law is presented for consideration by Council in 2024.

The range of penalties for the recommended AMPs is \$150-\$500 (Exhibit C).

### **Benefits**

There are a number of reasons that the City should expand its AMPs to additional by-law and licensing matters:

1. AMPs provide a fair, efficient and convenient alternative to the traditional court process of administering and adjudicating minor by-law violations for AMP recipients. Rather than having to attend a court date, with multiple cases scheduled for the same time period, AMP recipients are provided with specific appointments. Given the still-existing court backlogs post-COVID, AMP reviews will also likely take place significantly faster than a court case.
2. Officer time required to prepare court documents and appear in court is significantly reduced because hearings are held on an appointment basis and several hearings for the same Officer can be scheduled sequentially.
3. AMPs are set at a level that is intended to promote compliance with the by-law. In that way, they provide an additional enforcement tool for promoting voluntary compliance with by-law standards through monetary penalties that serve as both specific and general deterrents. As the AMPs system often provides an expedited resolution, the deterrent nature of penalties has a more immediate impact. By-law infractions that are dealt with through the POA court system are governed by court procedures and are subject to court and counsel availability. This difference in the approach can be more effective, particularly when the violation is minor in nature and where delayed adjudication might encourage continued non-compliance.
4. Expansion of the AMPs system to address minor offences frees court time and allows the courts to focus on, and deal effectively with, more complex and serious matters.
5. The AMPs system does not require the significant capital and operating investments of the traditional court system. The AMPs system operates with fewer staff and significantly less administrative overhead. The AMPs system also includes a fee structure that facilitates recovery of a portion of operating costs.

It is important to note that the expansion of the AMPs system does not replace the option of commencing proceedings under the POA as an enforcement tactic, but rather will complement the existing enforcement continuum. Beginning with education and warnings for by-law violations, increased punitive action such as the giving of AMPs or commencing POA proceedings can be pursued in cases of persistent non-compliance. It should also be noted that a person in contravention of a by-law cannot be issued both an AMP and a POA summons for the same offence/violation.

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**Penalty structure**

For by-law offences that have a set fine approved by the provincial government, AMPs are generally recommended at approximately 75 per cent of the set fine amount. In this instance, staff are basing the recommended penalty amounts on a review of (a) similar AMPs under our existing by-laws, (b) similar AMPs in other municipalities and (c) the general severity of the by-law violation. As per the *Municipal Act, 2001*, the penalty amount of an AMP may not be punitive in nature and shall not exceed the amount reasonably required to promote compliance with a by-law.

**Conclusion**

AMPs provide the City an alternative to the POA proceedings to promote compliance with its by-laws. This model has proven effective in allowing staff to provide enhanced response to disputes and increase customer service through established AMP review processes. Expansion of the City’s AMPs system is recommended to improve compliance, expediency, fiscal efficiency, and convenience in promotion of compliance with the City’s by-laws.

Further review of the entire Business Licensing By-Law will be completed in 2024.

**Existing Policy/By-Law:**

[By-Law Number 2020-69, A By-Law to Establish a Process for Administrative Penalties](#)

[By-Law Number 2006-213, A By-Law to License, Regulate and Govern Certain Businesses](#)

**Notice Provisions:**

None

**Financial Considerations**

None

**Contacts:**

Curtis Smith, Director, Licensing and Enforcement, 613-546-4291 extension 1109

**Other City of Kingston Staff Consulted:**

Laird Leggo, Manager, Licensing, Parking Operations and Policy

Heather Woodland, Supervisor, Policy and Licensing

Andrew Reeson, Senior Legal Counsel

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**Exhibits Attached:**

- Exhibit A     A By-Law to Amend By-Law Number 2020-69, A By-Law to Establish a Process for Administrative Penalties
- Exhibit B     A By-Law to Amend By-Law Number 2006-213, A By-Law to License, Regulate and Govern Certain Businesses
- Exhibit C     Recommended Administrative Monetary Penalties

# City of Kingston By-Law Number 2024–...

## ***By-Law to Amend City of Kingston By-Law Number 2020–69, A By-Law to Establish a Process for Administrative Penalties***

### **Whereas:**

The Corporation of the City of Kingston (the “**City**”) is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act*, 2001, S.O. 2001, c. 25 (the “**Municipal Act, 2001**”), s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise (*Municipal Act*, 2001, s. 5 (3)).

A single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public (*Municipal Act*, 2001, s. 10 (1)).

A municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act*, 2001 (*Municipal Act*, 2001, s. 434.1 (1)).

On April 7, 2020, council for the *City* passed *City of Kingston By-Law Number 2020–69*, “*A By-Law to Establish a Process for Administrative Penalties*”.

Council for the *City* (“**council**”) considers it necessary and desirable for the public to amend *City of Kingston By-Law Number 2020–69*.

**Therefore**, *council* enacts:

### **1. Amendment**

1.1 *City of Kingston By-Law Number 2020–69* is amended as follows:

- (a) Schedule A is amended by adding the following short form wording and penalty amounts in numeric order:



*By-Law to Amend By-Law ...-..*

<b>By-Law Number 2006-213, "Business Licensing By-Law"</b>		
<b>By-Law Section</b>	<b>Short Form Wording</b>	<b>Penalty Amount</b>
4.1	Carrying on a trade, business or occupation without a license	\$150.00
4.22	Obstructing, hindering or interfering with an investigation, inquiries or an inspection	\$500.00

**2. Coming into Force**

2.1 This by-law will come into force and take effect on the day it is passed.

1<sup>st</sup> Reading            date

2<sup>nd</sup> Reading            date

3<sup>rd</sup> Reading            date

Passed                date

Janet Jaynes  
City Clerk

Bryan Paterson  
Mayor

# City of Kingston By-Law Number 2024–...

## ***By-Law to Amend City of Kingston By-Law Number 2006–213, A By-Law to License, Regulate And Govern Certain Businesses***

### **Whereas:**

The Corporation of the City of Kingston (the “**City**”) is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act*, 2001, S.O. 2001, c. 25 (the “**Municipal Act, 2001**”), s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise (*Municipal Act*, 2001, s. 5 (3)).

A single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public (*Municipal Act*, 2001, s. 10 (1)).

A municipality may provide for a system of licenses with respect to a business (*Municipal Act*, 2001, s. 151 (1)).

On September 19, 2006, council for the *City* passed *City of Kingston By-Law Number 2006–213, “A By-Law to License, Regulate And Govern Certain Businesses”*.

Council for the *City* (“**council**”) considers it necessary and desirable for the public to amend *City of Kingston By-Law Number 2006–213*.

**Therefore**, *council* enacts:

### **1. Amendment**

1.1 *City of Kingston By-Law Number 2020–69* is amended as follows:

- (a) the recitals are amended by adding the following recital at the end of the recitals:

**And Whereas** subsection 434.1 (1) of the *Municipal Act*, 2001 authorizes a municipality to require a person, subject to such conditions

*By-Law to Amend By-Law ...–.*

as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Municipal Act, 2001*.

- (b) section 1 is amended by adding the following definitions in alphabetical order:

**“Administrative Penalty”** means an administrative penalty established by *City of Kingston By-Law Number 2020–69, “A By-Law to Establish a Process for Administrative Penalties”*;

**“Administrative Penalties By-Law”** means *City of Kingston By-Law Number 2020–69, “A By-Law to Establish a Process for Administrative Penalties”*;

**“Penalty Notice”** means a notice given pursuant to sections 2.2 and 2.4 of the *Administrative Penalties By-Law*;

- (c) section 7.4 is added to state:

Every Person who contravenes any provision of this by-law shall, upon issuance of a Penalty Notice in accordance with the *Administrative Penalties By-Law*, be liable to pay to the City an Administrative Penalty in accordance with Schedule B to the *Administrative Penalties By-Law* for each day or part of a day that the contravention continues, and the *Administrative Penalties By-Law* applies to each Administrative Penalty imposed pursuant to this by-law.

- (d) section 7.5 is added to state:

If a Person is required to pay an Administrative Penalty under section 7.4 in respect of a contravention of this by-law, the Person shall not be charged with an offence in respect of the same contravention;

- (e) section 7.6 is added to state:

An Administrative Penalty imposed on a Person under this by-law constitutes a debt of the Person to the City.

- (f) section 7.7 is added to state:

*By-Law to Amend By-Law ...-..*

If an Administrative Penalty imposed under this by-law is not paid within 15 days after the day that it becomes due and payable, the treasurer of the City may add the Administrative Penalty to the tax roll for any property in the City of Kingston for which all of the owners are responsible for paying the Administrative Penalty, and collect it in the same manner as municipal taxes.

**2. Coming into Force**

2.1 This by-law will come into force and take effect on the day it is passed.

1 <sup>st</sup> Reading	date
2 <sup>nd</sup> Reading	date
3 <sup>rd</sup> Reading	date
Passed	date

Janet Jaynes  
City Clerk

Bryan Paterson  
Mayor

## Recommended Administrative Monetary Penalties

<b>By-Law Number 2006-213, "Business Licensing By-Law"</b>			
<b>By-Law Section</b>	<b>Short Form Wording</b>	<b>Penalty Amount</b>	<b>Current Set Fine</b>
4.1	Carrying on a business without a license	\$150.00	\$200.00
4.22	Obstructing, hindering or interfering with an inspection	\$500.00	\$375.00