

**Provincial Offences Act vs Administrative Monetary Penalty
Comparator**

	Provincial Offences	Administrative Monetary Penalties	
What & Why?	<ul style="list-style-type: none"> • The P.O.A. is provincial legislation that sets out the rules and procedures for the enforcement and prosecution of municipal by-laws and provincial statutes. • Charges are laid for offences under provincial statutes, regulations or municipal by-laws that create the offence, but the forms used and the procedures to follow for successful convictions are outlined in the P.O.A • A P.O.A. fine/penalty is imposed in a criminal or quasi-criminal proceeding after a determination of guilt. Fines are intended to punish offenders. Fine revenue is shared with other municipalities in the County. • Resolving minor by-law infractions can potentially take many months or years in the congested court system. 	<ul style="list-style-type: none"> • A.M.P.s are an emerging approach to dealing with minor by-law infractions in a manner that is fair, effective, and efficient. This approach has been adopted by numerous municipalities, the province and the federal government, and is designed to streamline the enforcement process and increase compliance with the Town’s by-laws. • A.M.P.s were introduced following the recognition that Superior Court proceedings consume significant resources and there has been a persistent lack of judicial and other resources in the Ontario Court of Justice that sometimes result in significant delays. • An A.M.P. is a penalty imposed directly by the Town upon an offender within the context of an administrative process rather than a judicial process. A.M.P.s are intended to encourage compliance with a by-law without the threat of more serious administrative action, prosecution or Superior Court of Justice proceeding. • A.M.P.s are Town-administered and more customer-friendly in terms of the appeal and payment processes. Penalty revenue goes directly to the Town. Appeals are able to be addressed in a more timely manner and the A.M.P. system enables P.O.A. resources to be focused on more serious offences. • Given the effectiveness of A.M.P.s in encouraging compliance with municipal standards, it is proposed that A.M.P.s be established in all of the Town’s bylaws passed under Municipal Act, 2001. Consistent with this theme, in 2017, the Building Code Act was updated providing the ability for municipalities to establish A.M.P.s in their property standards by-laws recognizing the gains in utilizing the most effective and efficient process. • Resolving A.M.P.s is generally completed (including appeals if any) within 2 months or less. 	

<p>Summary of Improvements /Efficiencies</p>	<p><i>The transition from relying on the Ontario Court of Justice model for offence proceedings to an “in-house” customer centric approach of administrative penalties achieves the following;</i></p> <ul style="list-style-type: none"> • <i>Capitalizes on revenue from fines going directly to the Town rather than shared with other municipalities/County.</i> • <i>Substantially shortens the time for resolution of matters</i> • <i>Signifies a shift from punishment to encouraging compliance with Town bylaws</i> • <i>Reduces the need to rely on outside prosecution and reduces associated expenses</i> • <i>Administrative process can be applied to parking infractions as well as all Town bylaws including remedial orders streamlining systems for greater efficiency and effectiveness.</i> 		
<p>The Process</p>	<ul style="list-style-type: none"> • Part 1 of the P.O.A. provides for the issuance of certificates of offence. This is usually used for minor offences where approved short-form wording and set fines exist and there is a desire to not proceed through the A.M.P. process. • Short-form wording and set fines require provincial approval and provincial offence notices have a maximum fine of \$1,000. Set fines are established in Ontario by judicial order. The purpose of this is to ensure a fine is established that considers the appropriate amount for the offence in an out-of-court settlement. The set fine is the fine that would have been imposed should the defendant have attended court and pleaded guilty. In order to establish a set fine, an application is made to the Regional Senior Judge and is 	<ul style="list-style-type: none"> • The Town’s A.M.P. system will be established through Administrative Penalty Process By-law for both parking and non-parking by-laws. There are provincially-mandated procedural requirements established under the Municipal Act, 2001 and its related regulation, O. Reg. 333/07 in order for a municipality to introduce a system of A.M.P.s, including but not limited to: <ul style="list-style-type: none"> ○ monetary limits and the establishment of appeal processes; ○ the A.M.P. system must prevent political interference and conflicts of interest; ○ policies regarding financial management and reporting; ○ address complaints made by the public with respect to the administration of the system; and, ○ appeal process through the use of a first level screening and second level of review by a Hearing Officer. • The decision of the Screening Officer may be appealed to the Hearing Officer, but the decision of the Hearing Officer is final. • It is proposed that the Town now uses A.M.P.s to enforce Parking By-law 030-2022 and no longer issues Part 2 P.O.A offences and reviews and updates its non-parking bylaws to include AMP’s as well. • When created, new penalty amounts are established by evaluating existing penalty amounts in order to ensure consistency. Staff undertake the following approach when determining new A.M.P. penalty amounts: 	

	<p>then forwarded to the Crown Law Office for review.</p> <ul style="list-style-type: none">• This process may take between one (1) and four (4) months to conclude. Defendants and the prosecutor are able to appeal an acquittal, conviction or sentence in proceedings commenced by certificate under Part 1 and the appeal is to the Ontario Court of Justice presided over by a provincial Judge. The court may affirm, reverse or vary the decision or may direct a new trial. In rare instances, a further appeal to the Court of Appeal may be granted.• Part 2 of the P.O.A. provides a framework for filing and conviction proceedings for parking infractions.• Part 3 proceedings are commenced by the laying of information for matters that are more serious or for repeat offenders, such as non-compliance with a Property Standards Order or violations of the Zoning By-law. A Part 3 proceeding is used to seek higher penalties for the desired deterrence. Part 3 decisions may be appealed to the Ontario Court of Justice or the Superior Court of Justice depending on	<ol style="list-style-type: none">1. Consider the severity of the offence.2. Assess the proposed penalty alongside P.O.A. fines with consideration to tiered and escalating structures and other municipal comparators.3. Propose A.M.P. penalty structure for Council approval.4. Receive Council approval.1. 5. Implement A.M.P. system	
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	<p>the court that made the initial decision. The standard of review for Part 3 appeals are either an error of law, or error in fact and law, and can be heard on sentencing, conviction or acquittal. The monetary limits for Part 3 proceedings are established within the enabling legislation of the various Statutes/by-laws.</p>		
<p>Summary of Improvements /Efficiencies</p>	<p><i>The Administrative Penalty System creates a fair, transparent and accountable system to address matters of a regulatory nature in the following ways;</i></p> <ul style="list-style-type: none"> • <i>Eliminates the need and lengthy delays for the application/approval of set fines</i> • <i>Penalty amounts are determined internally by the Town to encourage compliance and are not punitive</i> • <i>Conflicts of interest and political interference is avoided specifically</i> • <i>Public input/complaints are considered routinely to improve the systems effectiveness and customer services</i> • <i>3 stages/levels of penalty review including independent screenings and hearings are provided for a quicker resolution and a community focused approach.</i> • <i>In cases of repeat violations a tiered system of penalties can be applied and for more serious offences related to public safety the Town can still utilize the POA process.</i> 		
<p>Monetary Limits and Unpaid Fines</p>	<ul style="list-style-type: none"> • Justices of the Peace consider various factors when determining the appropriate fine to be issued in P.O.A. court. • These factors include legislation, case law, previous convictions (repeat offenders) and individual circumstances (e.g. financial hardship and whether the case at hand relates to the defendant’s personal residence or a rental property/business). • In terms of unpaid fines, a fine is in default if any part of it is due 	<ul style="list-style-type: none"> • Monetary limits for A.M.P.s related to <i>Municipal Act, 2001</i> by-laws are established by the Province. O. Reg. 333/07 which states that the amount of an A.M.P. “shall not be punitive in nature [and] shall not exceed the amount reasonably required to promote compliance with a designated by-law”. • Unlike POA fines which are only recorded when the Town’s portion is actually received, administrative monetary penalty revenue is generally recognized when penalty notices are first issued with corresponding adjustments made in instances where penalties are cancelled or reduced. • Unpaid parking AMP’s result in plate denial until payment including administrative costs are paid in full. Confirmed and unpaid non-parking A.M.P.s are either sent to a Collection Agency, Small Claims Court or are added to the tax roll. 	

and unpaid for fifteen (15) days or more. The P.O.A. provides that the Clerk of the Court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid. The Clerk can then file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purpose of enforcement. Failure to adhere to this order will leave the contravener open to contempt proceedings.

- Furthermore, the P.O.A. also provides that a Justice of the Peace who is satisfied that the payment of a fine is in default shall order the suspension of any permit, license, registration or privilege to which the fine relates.
- The Town also has the ability to add unpaid P.O.A. fines to the tax roll. Prior to going to court, each file is reviewed to evaluate for a reasonable prospect of a conviction. If there is no reasonable expectation of a conviction, the charge is not laid.
- Information is generally shared by defendants with regards to

	<p>any potential due diligence defence they may have and charges can be withdrawn prior to trial or negotiations for guilty pleas are entered into.</p>		
<p>Summary of Improvements /Efficiencies</p>	<p><i>Administrative Monetary Penalty systems reduce the burden of proof consisting of reasonable and probable grounds for the Town generally required for judicial prosecution processes to a reasonable level of belief that is consistent with minor regulatory matters. Also, administrative fees which are established can be recovered directly by the Town along with the appropriate fees for appeals and failure to attend/show at a screening/hearing.</i></p>		
<p>Other Enforcement Tools</p>	<ul style="list-style-type: none"> • Work orders are a tool that is frequently issued in relation to violations of many of the Town’s Bylaws. They provide a list of the deficiencies required to be performed to bring about compliance with established municipal standards within a prescribed timeline. • Failure to do so may result in the initiation of processes (Part I tickets, Part III charges) pursuant to the POA as outlined and costs for carrying out the remedial work may be added to the tax roll. • The majority of the Town’s bylaws do not currently have appeal provisions to address administrative orders (Property Standards excepted) and the POA processes involving fines and appeals are neither efficient or effective being subject to both lengthy delays and limited resources with substantial 	<ul style="list-style-type: none"> • With the implementation of AMP’s if a person in receipt of a work order issued wishes to dispute the order, they may subject to the payment of a fee to the Town, appeal to the Hearings Officer, an impartial third party appointed by Town Council, by following the steps outlined in the by-law. • The authorities and requirements of the Hearings Officer and the Town are also established within the by-law. In most cases, an appeal of a work order does not operate as a “stay” of the order. • The Town may continue to issue penalties and/or undertake corrective action while utilizing the benefits of the most efficient and effective AMP system. 	

	expense for prosecution and limited recovery of costs.		
Summary of Improvements /Efficiencies	<i>The ability to dispute/appeal an administrative order is an important aspect of a fair and transparent process. Pursuant to an AMP system, a person may appeal to a Hearings Officer for an impartial review. The Hearings Officer may confirm, rescind or modify the Order. Appeals of this nature offer a new level of customer service and accountability while encouraging compliance with municipal standards.</i>		