

Date: 2023-03-10

Subject: **Amendment to Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019**

Contact: Shane Keyes, Acting Manager, Enforcement and By-law Services, Legislative Services

Report Number: Legislative Services-2023-267

Recommendations:

1. That the report from Shane Keyes, Acting Manager, Enforcement and By-law Services to the Committee of Council Meeting of March 29, 2023 re: **Amendment to Schedule A of the Administrative Penalties (Non-Parking) By-law 218-2019**, be received;
2. That Council enact a by-law to amend By-law 218-2019 Administrative Penalties (Non-Parking) By-law for the addition of penalties listed in Attachment 1 to this report to Schedule A of the by-law.

Overview:

- **The Administrative Penalties (Non-Parking) By-law was enacted on September 25th, 2019, and has been an effective tool to achieve compliance for municipal offences in the City.**
- **Since the enactment of this By-law, Council passed a by-law to require the registration of Additional Residential Units (By-law 157-2022), and a by-law to regulate and govern the registration of supportive housing residences (By-law 254-2021).**
- **The prosecution of additional residential units in accordance with the *Provincial Offences Act* was successful in growing the number of registered two-unit dwellings, however, contributed to an over-burdened judicial system.**
- **The issuance of penalty notices under the (Non-Parking) Administrative Monetary Penalty System will enhance enforcement measures by expediting compliance and alleviating the current strain on the Provincial Offences Court.**

Background:

The Administrative Penalties (Non-Parking) By-law was enacted September 25th 2019 to establish a system of administrative penalties for non-parking offences.

Since the enactment of this By-law, on August 10th, 2022, Council passed [By-law 157-2022](#) to require the registration of Additional Residential Units (ARU). This By-law replaced the Second Unit Registration By-law (87-2015) that created offences for illegal second units in the City of Brampton. Additionally, Council passed [By-law 254-2021](#) to regulate and govern the registration of supportive housing residences (Type 1 and 2), and to repeal By-law 244-82, as amended. These policies are intended to make units safe, legal, and livable for occupants.

The enforcement of municipal by-laws has been significantly enhanced by the use of penalties under the Administrative Monetary Penalties System (AMPS). Penalties have been an efficient alternative to Provincial Offences Court and an effective method to promote continuous compliance. The expanded use of the penalties will aid in minimizing the strain on the court system and expediting compliance.

A policy review is being undertaken by the City to amend additional residential unit policies in the Official Plan and Zoning By-law to conform to Bill 23, the More Homes Built Faster Act, 2022, and regulate multiple accessory apartments, granny flats, in-law suites, laneway suites, garden suites, and/or coach houses. With the growing number of permitted types of residential units, we expect a required shift in the delivery of enforcement services.

Current Situation:

Previously, staff issued charges pursuant to Part III of the *Provincial Offences Act* for the prosecution of illegal second units under the Zoning By-law and Second Unit Registration By-law. This process often took in excess of one year and put further pressure on the judicial system.

Additionally, not every case that an officer requested legal action for is prosecuted due to a variety of factors.

Year	Number of Cases Requesting Legal Action	Number of Cases Prosecuted
2017	192	178
2018	813	660
2019	1002	900
2020	148	50

Figure 1 Table displaying number of cases where an officer requested legal action after finding a contravention, compared to the number of cases charges were sworn for (values approximate).

Penalty fees would allow officers to take enforcement action the same day, avoiding administrative delays in penalties.

The recommendation to utilize the Administrative Monetary Penalty System is based on four core factors:

- The high volume of minor cases being heard within POA courts on a yearly basis;
- The significant time and costs associated with the administration of those courts;
- The increased (successful) use of the Administrative Monetary Penalty Systems in Brampton and Ontario as alternatives to traditional court processes; and,
- The severity and frequency of contraventions under the By-laws in the context of the potential impact on community safety and well-being.

The requirement to obtain a registration and change of use building permit for the creation of a two-unit dwelling currently costs \$1,282.43 for application and permit fees.

Proposed Penalty Structure

The proposed penalties under the Additional Residential Unit (ARU) Registration By-law and Supportive Housing Residences Registration By-law are outlined in Attachment 1 of this report. To encourage both the creation and legalization of new and existing units through general and specific deterrence, staff propose a graduated penalty structure under the Administrative Monetary Penalty System.

An individual who is found guilty of a violation may be fined up to \$25,000 per offence in a Provincial Offences Court (and a corporation found guilty of an offence may be fined up to \$50,000 per offence). Additionally, where there is the potential for receiving an economic advantage from an additional residential unit that is not registered, this information may be considered an aggravating factor for sentencing purposes and may attract a special fine up to \$100,000 or such other maximum amount permitted by the *Municipal Act, 2001*.

Based on the fire and life safety concerns associated with unregistered additional residential units and supportive housing residences, staff propose increasing fines based on the severity of the contravention and the frequency of non-compliance.

Contraventions that result in the imposition of a graduated administrative penalty may be classified into three frequency levels: first offence, second offence and subsequent offence(s). This classification is based on an assessment of the nature and scope of the contravention. These considerations are in the context of the potential impact on community safety and well-being; and the maintenance of quality standards.

This rationale has been adopted and applied by other municipalities to deter the continuation of such contraventions (Benchmarking, Attachment 2).

Corporate Implications:

Financial Implications:

The information provided in this report and implementing any described actions are accommodated within the approved budget. There would be no significant financial implications.

Term of Council Priorities:

This report directly aligns with the strategic direction and priority to continuously improve the day-to-day operations of the corporation by streamlining service delivery (Well Run City) and focusing on community safety (Healthy & Safe City).

Conclusion:

By adding these penalties to Schedule A of the Administrative Penalties (Non-Parking) By-law, staff will have the ability to issue monetary penalties to property owners who fail to register additional residential units or supportive housing residences in accordance with the By-laws enacted by Council.

Authored by:

Reviewed by:

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Attachments:

Attachment 1: Proposed Short Form Wording and Fines for Schedule A of Administrative Penalties (Non-Parking) By-law

Attachment 2: Municipal Benchmarking