

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON APRIL 21, 2015
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	MINISTRY OF THE ATTORNEY GENERAL PROVINCIAL OFFENCES ACT, R.S.O 1990, C.P. 33 MODERNIZATION CONSULTATION ONLINE ADMINISTRATIVE MONETARY PENALTIES

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the Managing Director, Development & Compliance Services & Chief Building Official the following actions be taken with respect to the Ministry of the Attorney General public consultation regarding proposed amendments to the *Provincial Offences Act* R.S.O. 1990, c.P. 33 to provide for online Administrative Monetary Penalties:

- a) the report of the City Clerk, dated April 21, 2015 entitled "Ministry of Attorney General Provincial Offences Administration Modernization Consultation Online Administrative Monetary Penalties" BE RECEIVED for information;
- b) the comments contained in the attached as Appendix "A" BE ENDORSED; and,
- c) the Civic Administration BE DIRECTED to submit the comments noted in b) above and the related staff report to the Ministry of the Attorney General as a preliminary response to the request for public comment.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

BACKGROUND

On March 3, 2015, the Ministry of the Attorney General announced the commencement of a public consultation process regarding the possible implementation of online Administrative Monetary Penalties for *Provincial Offences Act* ["POA"] matters throughout the province.

What is the Province Reviewing?

The province is reviewing the merits of a potential administrative monetary penalty system that would, if implemented, replace formal in-court procedures for resolving disputes, with an online system. The province indicates that this could result in cost savings for the court system and to ease of use for the public.

Background: City of London Municipal POA Court

- Since 2001, the City of London has managed the local Provincial Offences Court located at 824 Dundas Street pursuant to a *Memorandum of Understanding* with the Ministry of the Attorney General.
- In addition to servicing the London geographical area, The Corporation of the City of London provides court services and distributes fine revenue to nine municipalities within the County of Middlesex pursuant to an Inter-municipal Service Agreement.
- The City of London is billed by the province for costs related to POA, including Justices of the Peace, the provincial prosecutor and a per-charge fee for the use of the provincial ICON database. These costs are remitted to the province on a quarterly basis.
- After the above-noted inter-municipal revenue sharing and operational costs are taken into account, the net POA fine revenue contributes approximately \$2M annually to the City of London budget.

POA Charge Categories

- *Provincial Offences Act* charges are divided into three general categories referred to as Part I, II, and III charges:

Part I charges are minor offences commonly referred to as “tickets” and typically carry a maximum penalty of \$1,000. The majority of tickets relate to *Highway Traffic Act*, *Liquor Licence Act*, *Compulsory Automobile Insurance Act*, and municipal by-law offences.

Part II charges are exclusively parking tickets.

Part III charges are serious offences that require a court appearance and may result in jail time in addition to substantial fines.

- Part I and II charges are prosecuted by legal staff in the City Solicitor’s Office, with the exception of municipal by-laws charges of non-London municipalities. The majority of Part III charges are prosecuted by a provincial prosecutor.

POA Charge Volumes

- Part I charge volume for the City of London is roughly 43,000 charges per year (based on a five-year average using data from 2010 to 2014). Part I charges account for approximately 90% of total POA charge volume in this jurisdiction, with only minor year-to-year fluctuation from this weighting.
- Part II charges comprise a very small proportion of the total amount of POA matters proceeding to trial. In 2014, the parking division issued 86,057 tickets, while only 97 disputed tickets proceeded to trial.
- Part III charge volume for the City of London is approximately 4,800 charges per year (based on five-year average using data from 2010 to 2014).

POA Fines

- Approximately \$6.9M of POA fines are paid annually for Part I and III charges (based on five-year average, using data from 2010 to 2014).
- Part II fines *not* disposed of by way of trial, are included separately under the Parking Division budget. In 2014, 86,057 parking tickets were issued with a value of \$3.4M.
- POA accounts receivable is currently just over \$40M. Full-time collections officers within the Finance Division pursue these defaulted POA fines, using both internal resources and external collection agencies.

POA Court Efficiencies

- Several significant changes have been made in the past few years that have reduced costs and improved court client services.
- Electronic ticket uploading to the Ministry of the Attorney General database was implemented through a collaboration with the province and London Police Services which eliminated internal keying of between 25,000 and 30,000 tickets per year and improved data quality.
- Interpreter batch scheduling has reduced interpreter costs by an estimated 25%.
- Shifting to electronic court dockets has reduced annual paper related to this administrative function by more than 75%.
- Implementation of the Court Administration Management System software application has improved counter services and increased collection agency cost recovery by approximately 300%.

What are Administrative Monetary Penalties?

Administrative Monetary Penalties are an alternative legal process described in the Ministry of the Attorney General document (attached as Appendix “B”) as follows:

“Administrative monetary penalties (AMPs) are a civil (rather than quasi-criminal) mechanism for enforcing compliance with regulatory 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. While monetary penalties do not lead to

convictions or pose a risk of imprisonment, administrative decisions may still be made (e.g. demerit points, driver license suspensions).

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

What types of POA charges would the AMPs system under consideration apply to?

While it is not clear what the AMPs system would apply to, the provincial consultation documents are clear on what a future POA AMPs system would not apply to: more serious or complex matters, such as those that involve death or significant harm, or where jail time is a possible sentence. The province is indicating that the current consultation is reviewing an AMPs system for minor Part I POA matters, including traffic tickets as well as other less significant regulatory offences.

Parking matters, those under Part II, are already covered by existing legislation, and with an enabling by-law, municipalities may choose to implement local AMPs systems for parking matters. From an operational perspective, the City of London’s Parking Division has purchased new software that includes an AMPs module and with an enabling by-law, could implement an AMPs system in the near future. However, there is currently a \$100 set fine maximum for AMPs system. The effect of this maximum is that some charges still proceed through the regular POA process, requiring a completely parallel system with a distinct set of processes and procedures. This duplication limits economies of scale. Accordingly, it is recommended that the province consider increasing the \$100 maximum in order to streamline the AMPs option for parking matters.

A number of large municipalities have implemented successful parking AMPs programs, including Windsor, Oshawa, Mississauga, and Brampton.

What are the operational and financial impacts of an online AMPs system to the City of London?

It is premature to attempt to predict operational and financial impacts at this point in time. The consultation documents from the Ministry do not contain information about possible changes to revenue sharing, or sufficient details regarding the online aspect of a future system, or details about what level of government would be responsible for administration of any new or hybrid system. Once more information is available from the province, more alternatives and impacts can be analyzed.

What is being asked of the province at this time?

The most significant comment, as attached in Appendix “A”, is that the City of London, as a party to a *Memorandum of Understanding* with the Ministry of the Attorney General and a significant stakeholder in the existing POA system, be consulted beyond the end of the *public* consultation period. In addition, the province is asked to review the maximum set fine for parking AMPs systems and to consider making any future AMPs system for Part I POA matters an opt-in system.

SUBMITTED BY:	RECOMMENDED BY:
MICHAEL SCHULTHESS MANAGER III, COURTS ADMINISTRATION	CATHY SAUNDERS CITY CLERK
CONCURRED BY:	
GEORGE KOTSIFAS MANAGING DIRECTOR DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL	

Appendix A City of London comments to be submitted to the Ministry of the Attorney General

Appendix B *Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario*,
Ministry of the Attorney General, March 3, 2015

Appendix C *Consultation Participation Instructions*, Ministry of the Attorney General

Appendix “A”

City of London Comments to be Submitted to the Ministry of the Attorney General

The Ministry of the Attorney General has posed a series of questions in the consultation document titled *Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario* dated March 3, 2015. These questions appear to be directed primarily towards members of the public, and accordingly, the following comments from the City of London reflect the significant role that the municipality plays in delivering court services pursuant to an agreement with the Province of Ontario.

1. The City of London supports the overall goal of an effective, faster and less expensive system for handling matters under the Provincial Offences Act, and is encouraged to see that the Province of Ontario is reviewing alternatives to the existing POA system.
2. The Province of Ontario should recognize the substantial investment that many municipalities have made in court infrastructure, including but not limited to court buildings, technology, and court staff training.
3. The City of London recommends that any Administrative Monetary Penalty system be optional to allow each municipality to determine both the level of participation based on local financial and operational realities, and to allow for controlled transitioning and change management. This approach would be consistent with the AMPs legislative framework that is currently available for parking matters.
4. The City of London supports the use of Administrative Monetary Penalties for parking and by-law matters, but would request that the current \$100 set fine maximum be reviewed as part of this consultation in order to streamline the POA system for all stakeholders.
5. The Province of Ontario should continue this important consultation on the future of the POA system with municipalities after April 28, 2015 and should advise municipalities of implementation plans as soon as possible to allow for appropriate planning and budgeting at the municipal level.