



TO: GENERAL COMMITTEE

SUBJECT: ADMINISTRATIVE PENALTY SYSTEM

WARD: ALL

PREPARED BY AND KEY CONTACT: R. BATES, MANAGER OF COURT SERVICES EXT 4432

SUBMITTED BY: W. COOKE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That an Administrative Penalty System be implemented for Automated Speed Enforcement matters and in the future municipal by-law violations (such as parking violations), and the by-laws to establish an Administrative Penalty System, as required by the *Municipal Act, 2001* and the *Highway Traffic Act, RSO 1990* be circulated to Council via memorandum prior to being placed on a Council Agenda.
2. That the Chief Administrative Officer and City Clerk be authorized to execute any documents necessary to implement an Administrative Penalty System for Automated Speed Enforcement and municipal by-law violations.
3. That the City Clerk be authorized to hire two Screening Officers/Junior Prosecutors, funded by additional Automated Speed Enforcement program revenue, with further authorization to hire one officer per additional 40,000 in violations issued in Barrie.
4. That staff in the Legislative and Court Services Department be authorized to issue an RFP to retain Hearing Officer Services in an amount not to exceed \$60,000, funded by additional Automated Speed Enforcement program revenue.
5. That a minor Capital Project "Cedar Pointe AP Renovations" be approved in the amount \$100,000 for the purpose of renovations for Screening and Hearing Officers required for the Administrative Penalty Program to be funded from the Tax Capital Reserve, to be offset by a \$100,000 transfer to the tax capital reserve from additional program revenue in the operating budget.
6. That staff in Legislative and Court Services provide a memorandum annually to advise of the number of violations issued/processed and associated resources that have been retained.

PURPOSE & BACKGROUND

Report Overview

7. The purpose of this Staff Report is to detail the logistics and resources required to implement and operate an Administrative Penalty System (AP) for the processing of automated speed enforcement and parking infractions as legislated under s. 434.1 of the *Municipal Act, 2001*, and s. 21.1 of the *Highway Traffic Act, RSO 1990*.

Background

8. In 2019, the Province passed into law O. Reg. 398/19 under the Highway Traffic Act allowing municipalities to deploy Automated Speed Enforcement (ASE) in designated safety zones.
9. On June 13, 2022, Council authorized the implementation of Automated Speed Enforcement (ASE) in school zones and community safety zones and the leasing of two cameras.
10. Further to Council's direction of June 2022, City staff have executed agreements with the Ministry of Transportation, Local Authority Services (LAS), and Conduent Business Services, to implement the Automated Speed Enforcement Program. Use of ASE cameras in the City began on December 1, 2023.
11. On June 13, 2022, City Council also adopted motion 22-G-131 regarding Automated Speed Enforcement and directed:

"That staff in the Legislative and Court Services Department investigate and report back with the next steps associated with implementing an AP program with respect to parking and automated speed enforcement penalties."
12. An Administrative Penalty system is an approach to deal with minor provincial offence violations for vehicle owner contraventions detected using camera systems as well as municipal bylaws such as parking. A municipally operated AP program removes these minor charges from the Provincial Offences Court stream to a system that is fair, effective, and efficient.

Administrative Penalties

13. On December 6, 2023, City Council provided general approval for the implementation of the Administrative Penalty System as part of motion 23-G-281 the 2024 Business Plan and Budget and Capital Plan. The implementation of an AP System was one of several budget reduction options presented by staff.
14. Section 3. (1) of O. Reg 333/07 of the *Municipal Act, 2001* and Section 102.1 of the *Municipal Act* provide a municipality the authority to require a person to pay an administrative penalty related to parking violations together with a screening and review process.
15. Municipalities are granted authority under Regulation 355/22 of the Highway Traffic Act to require a person to pay an administrative penalty related to ASE violations together with a screening and review process.
16. Under both regulations, a municipality is required to pass a by-law and standards to establish a system of administrative penalties that meet the requirements detailed in the regulations. The by-laws must be passed before administrative penalties can be implemented.

17. An administrative penalty consists of three components, all paid by the contravener:

Contravention amount: this amount is identical to Provincial Offences Act (POA) set fines, except in the case of speeding greater than 50 km/hour over the limit where the amount is set at \$19.50 km per hour as no court appearance is available. The contravention amount is the same as existing POA set fines for the corresponding offence of speeding in a community safety zone (CSZ), irrespective of whether the contravention occurred in a CSZ or school zone (i.e., the contravention amount is doubled). The contravention amounts are noted in O. Reg 355/22.

Victim's Justice Fund Component (VC): this is the same as the POA victim fine surcharge, except where the penalty amount is varied on appeal.

Authorized Requestor Information Services (ARIS system) fee for plate owner information product: the amount of \$8.25 reflects the costs incurred by the municipality to access the name and most recent address of the person who is subject to the penalty order and will also be paid by the contravener.

ANALYSIS

18. The City of Barrie has been operating an ASE Program for approximately three months. As outlined in a memorandum dated March 27, 2024, the volume of speeding in the initial two camera locations has substantially exceeded expectation. Over 9,000 violations were processed for the initial three months. As with a traditional speeding ticket issued by a police officer, the contravener has the opportunity to take the matter to trial if they plead not guilty within the legislated timeframe.
19. The volume of violations has resulted in an over 100% increase in the workload for Court Administration staff for in-person traffic and 75% increases in phone calls. During the pandemic and the resulting Provincially-ordered court closures, layoffs and reductions to a number of approved positions were undertaken to manage the City's financial exposure. To ensure proper customer service levels are maintained with the increases in inquiries and transactions, staff will be reviewing filling the vacant Court Administration positions on a temporary basis to address the current calls/in-person inquiries. Staff would seek the necessary approvals in the future if the demand continues and need for the positions is permanent.
20. The dispute rate of ASE charges is anticipated to be much less than regular speeding ticket dispute rates (40%+) as there are no demerit points associated with convictions and the camera system is required to be certified for accuracy in advance of utilization. Pre-pandemic, the local Provincial Offences Court System could likely have handled a small number of additional trials for ASE offences. Post-pandemic, Provincial Offences Courts continue to remain backlogged with trial matters from the Provincially-ordered court closures. In addition to a backlog of cases, there has been a continued decline in the judicial resources being supplied by the Province for POA matters. These reductions have resulted in significant impacts to the time to trial for some matters, resulting in the potential for charges to be dropped.
21. The Province has adopted legislation that provides municipalities authority under the AP Program to deal with owner type offences including Automated Speed Enforcement (ASE), Red Light Cameras, Streetcar Cameras, and School Bus Camera charges.
22. An Administrative Penalty System moves these types of disputes out of the court system and gives municipalities the discretion to resolve tickets at a screening review. A person who disagrees with the decision of one or more Screening Officers can request a hearing before a Hearing Officer.

23. Implementation of an AP program is anticipated to provide a more effective, automated, standalone system, without the need to rely upon the availability of judicial officers. The system is not limited by capacity but rather easily expandable should the need arise.
24. An AP program can be more efficient, user friendly, and less intimidating while maintaining the fundamental principles of justice and due process and generally results in the quicker completion of matters over and above the court process.
25. The traditional court process is not only intimidating, time consuming and less efficient, it is considerably more expensive to utilize than an AP System. One of the significant factors is the cost of judicial resources. The Ministry of the Attorney General charges \$300 per hour for a Justice of the Peace. Additional courtroom staff are required as well under the traditional court process.
26. Under an Administrative Penalties System, the initial Screening Officer and potential requirement for a Hearing Officer result in significantly lower costs per hour than a Justice of the Peace.
27. The following chart shows the difference for cost per charge between the Court Process vs an Administrative Penalty System

Court Process		Administrative Process	Penalty
Processing Fee/Charge	\$10.00	Processing Fee/Infraction	\$10.00
Operating costs – includes facilities, Ministry of the Attorney General fees for Justices of the Peace, staffing to support in-court operations – both Court Administration staff and Courtroom Support staff	\$45.00	Operating Costs (Court Administration staff, Screening and Hearing Officer Services).	\$7.00
Average Cost/Charge Processed	\$55.00	Average Cost/Penalty Processed	17.00

28. Every 40,000 violations issued would cost the City of Barrie \$680,000 to process in an AP Program, whereas in a traditional Court it would be \$2.2. million. This results in approximately \$1,520,000 savings for the City of Barrie by moving to an AP system.
29. Staff are recommending the utilization of an AP System for ASE violations. Staff are also recommending the utilization of the AP Program for Parking tickets. The Program would initially start with ASE charges only, eventually adding parking tickets to the Program to remove these charges out of the Court system.

Administrative Penalties By-laws

30. The legislation requires a separate by-law for the use of Administrative Penalties for ASE from the by-law for its use for parking violations. It also requires the municipality to establish standards related to the administration of the AP System to:
 - a) prevent political interference in the administration of the system,
 - b) guidelines on what constitutes a conflict of interest, prevent conflicts of interest and redress any conflicts if they occur.
 - c) policies and procedures related to financial management and reporting; and

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- d) procedures for the filing and processing of complaints made by the public related to the administration of the system.
31. A by-law is required to include a number of procedural requirements that are established in the Provincial regulations, as follows:
1. The owner of a vehicle must be provided with reasonable notice that an administrative penalty is payable under the administrative penalty by-law.
 2. The individual issuing a penalty notice in respect of the contravention of a designated by-law is not allowed to accept payment in respect of the penalty.
 3. A person who receives a penalty notice shall be given the right to request a review of the administrative penalty by a screening officer appointed by the municipality for that purpose.
 4. The screening officer may cancel, affirm or vary the penalty, including any fee imposed under section 12, upon such grounds as are set out in the administrative penalty by-law.
 5. A person who receives notice of the decision of the screening officer shall, in such circumstances as may be specified in the administrative penalty by-law, be given the right to a review of the screening officer's decision by a hearing officer appointed by the municipality for that purpose.
 6. The hearing officer shall not make a determination with respect to a review of the screening officer's decision unless he or she has given the person who requested the review an opportunity to be heard.
 7. The hearing officer may cancel, affirm or vary the decision of the screening officer upon such grounds as are set out in the administrative penalty by-law.
 8. Procedures must be established to allow a person to obtain an extension of time in which to request a review by a screening officer, or a review by a hearing officer, on such grounds as may be specified in the administrative penalty by-law.
 9. Procedures must be established to permit persons to obtain an extension of time for payment of the penalty on such conditions as may be specified in the administrative penalty by-law.
 10. The procedures established under paragraphs 8 and 9 shall provide for a suspension of the enforcement mechanisms available under sections 9, 10 and 11 in relation to the administrative penalty if an extension of time has been granted.
 11. Procedures must be established to permit persons to be excused from paying all or part of the administrative penalty, including any administrative fees referred to in section 12, if requiring them to do so would cause undue hardship.
32. Municipalities can pass by-laws to charge fees in relation to services rendered (e.g., transcripts, photocopies, recordings), provided that the fee is collected before or at the time that the service is rendered. This amount cannot be added to the AP amount. Municipalities are also permitted to add \$60.00 to the AP amount if an individual does not appear at a scheduled screening or a hearing. Municipalities cannot add a late payment fee to the AP amount.

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33. If Council approves the implementation of the AP Program for ASE violations, the by-law would be presented to Council for its consideration in the near future. A similar by-law would be presented for the implementation of the AP Program for other offences such as parking, with the necessary legislative reference changes included.

Resource Requirements

34. To implement the AP Program additional staff resources will be required.
35. A Screening Officer reviews the violation and any associated factors. They can then cancel, affirm or vary the penalty upon grounds established by by-law. Screening Officers would be hired as Junior Prosecutors. Hiring in this dual role would allow for these positions to be utilized in the Prosecutions Unit for court matters in addition to the screening officer duties under an Administrative Penalty System.
36. Based on the volume of violations in the first three months, staff are recommending that two Screening Officer/Junior Prosecutor positions be hired on implementation of the Administrative Penalty System. A single position would be insufficient for the volume of violations and wouldn't allow for coverage during vacations and illnesses.
37. Staff are also seeking authority to expand the number of staff based on the ratio of violations to staff. It is proposed one Screening Officer/Junior Prosecutor be hired per additional 40,000 in violations issued in Barrie.
38. If a person is not satisfied with the response from the Screening Officer, they may request a hearing through a Hearing Officer. The Hearing Officer may cancel, affirm or vary the decision of the Screening Officer as noted in provisions of the by-law, but only make a determination once they have given the person requesting a review an opportunity to be heard.
39. Staff are also recommending retaining external Hearing Officer Services. If the recommended motion is approved, a Request for Proposals would be issued to obtain one or more experienced service providers, with the ability to match the service level to the demand. The Hearing Officer(s) will need to be a contractor as they can't be an employee of the municipality.
40. In the future, additional Court Administration Clerks may be required due to the expected increase in phone calls and counter traffic related to ASE and anticipated inquiries related to the AP Program. While the Court Administration staff are required whether the traditional court system is utilized or an AP program implemented, removing the ASE charges out of the Court process negates the need to hire additional Court Room Support staff that would also be required.
41. To ensure Council is aware of the resources required, staff would provide a memorandum annually outlining the volume of violations and number of staff retained to support the AP program.
42. Should the resources required to operate an AP system not be approved, charges would continue to flow through the Provincial Offences Court system, where they would compete with limited available court and trial time. Additional staff would be required to support those courtroom operations in addition to Justice of the Peace resources, with the cost to process charges through the court system substantially greater than through an AP program.

Space Requirements

43. Renovations will be required at the Cedar Pointe POA office to accommodate the Junior Prosecution/Screening Officers required for the AP Program. These officers will require some privacy as they deal with individuals and discuss their charges with them.

44. The approximate costs of the renovations are approximately \$100,000. This would accommodate up to five officers and allow for growth to the Program. It is anticipated that these costs will be covered through revenues achieved through the ASE and AP Program.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

45. There are no environmental or climate change matters directly related to the recommendation.

ALTERNATIVES

46. The following alternatives are available for consideration by General Committee:

Alternative #1 General Committee could maintain the practice of prosecuting infractions in the City's Provincial Offences Courts (i.e. Status Quo)

This alternative is available however it is not recommended. Processing these matters in the court is more expensive for the taxpayer, an inefficient use of judicial resources, requires additional courtroom staff and more onerous for defendants. The reduction in available judicial resources also places POA charges at risk.

Alternative #2 General Committee could postpone the implementation of an AP Program.

This alternative is not recommended for the reasons mentioned in Alternative #1.

FINANCIAL

47. Currently processing charges through the courts cost an average of \$55.00 per charge. These costs per charge are already being incurred. The cost for processing charges incurred by the taxpayer can be reduced by administering an Administrative Penalty Program to approximately \$17.00 per charge. In addition, the municipality can recover the cost for the search of the Ministry of Transportation database to access the name and most recent address of the registered vehicle owner of \$8.25 per request.
48. The costs to implement an AP Program to process approximately 40,000 charges per year, are anticipated to be \$680,000 annually, which is significantly less than the current court system. As with the traditional court system, the net revenue from any fines, once the program is implemented, are expected offset the costs of the program.

LINKAGE TO 2022-2026 STRATEGIC PLAN

49. The recommendation(s) included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan:

Responsible Governance

By moving the ASE charges to be processed under an AP Program, the City would be saving a considerable amount per charge. This available funding could be used towards additional ASE cameras or other community safety measures.