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## Committee of the Whole Report

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**DATE:** Tuesday, June 05, 2018

**WARD(S):** ALL

**TITLE: UPDATE TO AUTOMATED SPEED ENFORCEMENT**

**FROM:**

Stephen Collins, Deputy City Manager, Public Works

**ACTION:** DECISION

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**Purpose**

This report provides a status update of the Bill 65 *Safer School Zones Act* (Bill 65) as it relates to the use of Automated Speed Enforcement to enforce speed limits in community safety and school zones.

**Recommendations**

1. That City Staff work with the Region, other municipalities and the Ontario Traffic Council (OTC) in the planning and development of the Automated Speed Enforcement Program. This includes the development of a joint request for proposal to establish an Automated Speed Enforcement Program;
2. That the Province be requested to consider adopting an Administrative Monetary Penalties System (AMPS) for the Automated Speed Enforcement program; and
3. That the City Clerk forward a copy of this report to York Region, the Ministry of Transportation and OTC.

## **Report Highlights**

- Bill 65 enables municipalities to implement and operate Automated Speed Enforcement (ASE) technology to enforce speed limits in school and community safety zones.
- The City, the Region and other municipalities across the Province are monitoring the development of Bill 65. An ASE municipal working group has been set up by the OTC to look at a consistent province-wide approach to project development.
- The option to use the Administrative Monetary Penalty System (AMPS) for ASE is under investigation.
- The City of Toronto is leading the development of the RFP for ASE operations and the investigation of the feasibility of having the City of Toronto manage the Joint Processing Centre (JPC) for ASE offences.
- The anticipated timeline for ASE implementation is two years.
- Staff continue to participate in the OTC ASE municipal working group to look at a collaborative approach to ASE program development.

## **Background**

**In May 2017, the Provincial Legislature enacted Bill 65, the *Safer School Zones Act*. Bill 65 enables municipalities to enact bylaws to implement Automated Speed Enforcement (ASE) in community safety and school zones to increase safety through efficient enforcement of speed limits.**

On November 15, 2016, the Minister of Transportation introduced Bill 65, the *Safer School Zones Act*. The Bill proposes amendments to the *Highway Traffic Act* (HTA) that provide the framework for municipalities to implement and operate Automated Speed Enforcement (ASE) technology to enforce speeding offences in school and community safety zones using an opt-in approach.

Municipalities will be responsible for ASE administration including location selection, the installation of cameras and signage, infraction processing and communications.

In May 2017, Bill 65 was passed (at Royal Assent). The Ministry of Transportation (MTO) will be preparing the ASE Regulations for Provincial approval. The MTO is also developing agreements that outline the roles and responsibilities of the government with respect to ASE.

Based on lessons learned from the Red-Light Camera program, the ASE implementation is anticipated to be complete in approximately two years.

## **Previous Reports/Authority**

Provincial legislation Bill 65, *the Safer School Zones Act*:

### **[Bill 65 – Safer School Zones Act](#)**

Council Motion at its May 8, 2018 Committee of the Whole Meeting – Photo Radar Demonstration Project:

[https://www.vaughan.ca/council/minutes\\_agendas/AgendaItems/CW\\_0508\\_18\\_29.pdf](https://www.vaughan.ca/council/minutes_agendas/AgendaItems/CW_0508_18_29.pdf)

Council Motion at its November 3, 2015 Committee of the Whole Meeting – Speed Limit Policy:

[https://www.vaughan.ca/council/minutes\\_agendas/AgendaItems/CW1103\\_15\\_15.pdf](https://www.vaughan.ca/council/minutes_agendas/AgendaItems/CW1103_15_15.pdf)

## **Analysis and Options**

**The City, along with the Region and other municipalities across the Province, is monitoring the development of Bill 65 and is participating in an ASE municipal working group.**

The City, along with the Region and other municipalities across the Province, is monitoring the development of Bill 65. An ASE municipal working group has been set up by the Ontario Traffic Council (OTC) to look at a consistent province-wide approach to program development. This includes but is not limited to program administration, technology (fixed and mobile ASE systems), operations, budget and technical criteria for site selection and the court system.

**The option to use the Administrative Monetary Penalty System (AMPS) program for ASE in York Region is under investigation.**

In Ontario, municipal parking, licensing and by-law violations are generally enforced through a system regulated by the *Provincial Offences Act* and are processed through the Ontario Court of Justice (Court). The AMPS is a municipally administered program that replaces the current Court system to provide a more flexible and citizen focused process for dealing with by-law violations. The AMPS is also a means to reduce the current Court backlog.

Most municipalities that have implemented an AMPS program have converted their parking enforcement program to AMPS. The City of Vaughan has enacted AMPS for parking by-law violations and expanded the use of AMPS to licensing offences.

York Region and the local municipalities have formed a working group whose mandate is to review options related to an expanded and collaborative use of AMPS. ASE is being considered as part of the AMPS review.

The Province has indicated that ASE offences to be processed using the *Provincial Offences Act* (POA) system. POA offences can be settled or disputed through the court

system. York Region has raised concerns that the courts do not have the capacity to process ASE charges.

York Region adopted a Court Services' resolution in February 2017 (attachment 1) to advocate for amendments to the *Highway Traffic Act* to allow for technology-based enforcement of offences to be administered using AMPS.

In principal, staff support the investigation of AMPS as a means to process ASE offences. Staff continue discussions with York Region and the Province as part of the ASE municipal working group regarding how best to handle charges from the ASE program.

**The Red-light camera program is being used as a model for the ASE program by the ASE working group.**

The Province envisions processing ASE offences through a single joint processing centre (JPC) similar to the red-light camera JPC operated by the City of Toronto. A central processing centre ensures uniform treatment of infractions across the province.

**The OTC, in collaboration with the Region and other municipalities across the Province, is leading the program development for ASE. It is important for the City to participate in the program plan.**

The City of Toronto is actively participating in the OTC ASE municipal working group and is leading the development of the RFP for ASE operations and the investigation of the feasibility of having the City of Toronto manage the Joint Processing Centre on behalf of the partnering municipalities in the ASE program. This includes the investigation and development of the business case and cost-sharing formula among the participating municipalities presuming the City of Toronto will host the JPC for ASE offences.

The City of Toronto is inviting municipalities to confirm interest in participating in the development of a joint request for proposal (RFP) to establish an ASE program and finance sharing. The City of Toronto will be financing the project until a formal project cost distribution scheme is determined with the participating municipalities.

It is recommended that the City continue to participate in the OTC ASE municipal working group with other municipalities in the ASE program development. This includes the development of a joint RFP to establish the ASE program. By actively participating in this process, staff will have the opportunity to ensure that the needs of Vaughan are considered and reflected in the ASE program and to explore how best to apply this new tool.

**Kipling Avenue, north of Highway 7, can be evaluated for consideration of a demonstration project for ASE when the necessary technology, agreements, and regulations are in place.**

Kipling Avenue, north of Hwy 7, is recommended as the candidate for a demonstration project as set out in the council motion presented at the May 8, 2018 Committee of the Whole meeting.

Kipling Avenue is classified as a collector roadway with right-of-way measuring between 23 and 26 metres. Kipling Avenue, north of Highway 7 to Woodbridge Avenue has a 40 km/h speed limit, with a community safety zone. Woodbridge Public School is located in the area. The most recent speed data showed average speeds from 43 km/h to 51 km/h. The 85<sup>th</sup> percentile speeds ranged from 53 km/h to 63 km/h. The 85th percentile speed defines the speed that 85 percent of motorists will drive at or below under free-flowing conditions.

Speed radar message boards are scheduled to be deployed on Kipling Avenue, north of Highway 7, as part of the City's 2018 speed compliance program. York Regional Police have been informed of the speed data on Kipling Avenue to provide enforcement, where possible.

ASE is an additional tool to enforce speed limit compliance on Kipling Avenue. Kipling Avenue, north of Highway 7, can be evaluated for consideration of a demonstration project for ASE when the necessary technology, agreements, and regulations are in place.

As per Council direction at the November 3, 2015 Committee of the Whole meeting, Staff have been directed to undertake a comprehensive speed limit policy review. The Speed limit policy review will take into account the impact on the number of pedestrians and cyclists in school zones and community safety zones to align with the ASE program. The speed limit policy review has been identified as one of the key projects in the development of the Traffic Strategy.

### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

In consideration of the strategic priorities related to the Term of Council Service Excellence Strategy Map (2014 – 2018), this report is consistent with the following Term of Council Priorities:

- Improve municipal network; and
- Continue to ensure the safety and well-being of citizens.

### **Financial Impact**

The City, along with the Region and other municipalities across the Province, is monitoring the development of Bill 65 – *Safer School Zones Act*. An ASE municipal working group has been set up by the Ontario Traffic Council (OTC) to look at a

consistent province-wide approach to program development. This includes but is not limited to program administration, technology, operations, budget and technical criteria and the court system. The Capital Project, RP-6767-18 -Road Safety Program: Automated Speed Enforcement in the amount of \$56,650, was requested in order to carry out the investigation of the initial ASE program development. It was approved as part of the 2018 capital budget. Staff will inform Council of the costs associated with program implementation and operation as more information becomes available.

### **Broader Regional Impacts/Considerations**

York Region is participating in the OTC ASE Municipal Working Group and an AMPS working group has been set up by the Region to look at a collaborative approach to program development.

### **Conclusion**

It is recommended that staff continue to participate in the OTC ASE municipal working group and the York Region AMPS working group to look at a collaborative approach to ASE program development.

**For more information**, please contact:

Zoran Postic, Director, Transportation Services Parks and Forestry Operations

Gus Michaels, Director, By-law and Compliance Licensing and Permit Services

### **Attachments**

1. York Region Report – Bill 65

### **Prepared by**

Margie Chung, Manager of Traffic Engineering, Ext. 6173

### **In Consultation with:**

Gus Michaels, Director of By-law and Compliance Licensing and Permit Services

Joe Italo Luzi, Manager of Enforcement Services

Rudi Czekalla-Martinez, Manager of Policy & Business Planning

Kay-Ann Brown, Acting Manager of Financial Planning and Analysis

Surangi Parikh, manager of Business Relationship



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Clause 6 in Report No. 3 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on February 16, 2017.

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Bill 65 - *Safer School Zone Act*, 2016

Committee of the Whole recommends adoption of the following recommendations, as amended, in the report dated January 27, 2017 from the Regional Solicitor:

1. Council adopt the Resolution in Attachment 1, on Bill 65, Safer Schools Zones Act, to advocate for amendments to allow for technology based enforcement of offences to be administered through an administrative monetary penalty system.
2. The Regional Clerk circulate this report to the Clerks of the local municipalities seeking similar resolutions supporting the Region's position.
3. The Regional Clerk circulate this report to the Association of Municipalities of Ontario, the Ministry of Transportation and the Ministry of the Attorney General.

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Report dated January 27, 2017 from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council adopt the Resolution in Attachment 1, on Bill 65, *Safer Schools Zones Act*, to advocate for amendments to allow for technology based enforcement of offences to be administered through an administrative monetary penalty system.
2. This report be circulated by the Regional Clerk to the Clerks of the local municipalities, the Association of Municipalities of Ontario, the Ministry of Transportation and the Ministry of the Attorney General.

## 2. Purpose

This report advises Council of the provisions of Bill 65 *Safer School Zones Act, 2016* ("Bill 65") which would amend the *Highway Traffic Act* ("HTA") to allow for the use of technology to enforce speeding offences in community safety and school zones and the impact of these amendments on municipalities and the Provincial Offences Act ("POA") Courts. This report also recommends advocacy to allow for enforcement of such offences as well as Red Light Camera offences through administrative penalties

## 3. Background

On November 15, 2016 the Minister of Transportation introduced Bill 65. The intent of Bill 65 is to amend the *Highway Traffic Act* (HTA) by repealing the current photo radar provisions and enact a new automated speed enforcement system ("ASE"). Municipalities would be able to enact bylaws to allow the use of the ASE in community safety and schools zones.

## 4. Analysis and Implications

Bill 65 would allow municipalities to enact bylaws implementing ASE in community safety and school zones to increase safety through the efficient enforcement of speed limits

The HTA provides municipalities the authority to enact bylaws designating community safety zones and school zones. Despite being enacted by a municipality such bylaws create HTA offences which are administered through the POA Courts as they are not municipal bylaw offences.

Enforcement would follow a process similar to the Red Light Camera program in that the owner of the vehicle would be charged with the speeding infraction under the HTA and the charge would proceed through the POA court system with options for payment, guilty-pleas or a request for trial.

Under Bill 65 in its current form, the full costs of implementation and operation of ASE would be borne by the municipality, and administration and fine revenue would remain with the POA Courts

Under Bill 65 as proposed, implementation of ASE in community safety and school zones would be the responsibility of the municipality and any operational costs would be incurred by the municipality accordingly. There is no mechanism

within the existing POA framework for local municipalities to recover costs of ASE programs through HTA fine revenue. This program would not fall within the purview of York Regional Police and has no direct impact on police operations.

The Region's local municipalities receive fine revenue for bylaw offences and the Region's Court Services retains the fine revenue from HTA offences

Under the POA Court Inter-municipal Agreement, local municipalities receive fine revenue for municipal bylaw offences (Sections 433 and 434 of the *Municipal Act*, 2001). Fine revenue for HTA offences are collected and retained by Court Services to cover the costs of operating the POA Court program.

Section 102.1 of the *Municipal Act*, 2001 currently authorizes municipalities to implement an administrative monetary penalty system for parking bylaws. Administrative penalties are an alternate mechanism for enforcement of bylaws. The offender is given a monetary penalty (ticket) without the right to dispute the ticket in court. There is a right to have the penalty reviewed by a Screening Officer and to further dispute that decision before a Hearing Officer. The Screening Officer and Hearing Officer are appointed by the municipality and can reduce the amount to be paid or grant additional time to pay an administrative penalty. Where a municipality has enacted a bylaw with administrative penalties, the offences under the bylaw are not POA offences and are not enforced through the POA Courts.

Bill 68, *Modernizing Ontario's Municipal Legislation Act*, 2016 includes provisions to expand the ability of municipalities to implement administrative penalties for enforcement of municipal bylaws, beyond parking and licensing, but these proposed provisions would not extend to HTA offences including ASSES.

Enforcement through AMPS would result in efficient enforcement in community safety and school zone and reduce pressure created by scheduling constraints and backlog in the POA Courts system

The Region's Court Services program, like most POA Courts, is experiencing significant backlog in scheduling trial matters within the courts. Increased court closures due to a judicial shortage are creating significant pressures on the Region's POA court program. Court Services does not have the capacity to schedule additional trial requests that would result from ASE charges.

Court Services and other POA Court programs have been advocating for legislative amendments to allow certain HTA offences, including Red Light Camera and photo radar, to be enforced exclusively through administrative

penalties. This would relieve constraints on court capacity and reserve court time for matters requiring in-person evidence by enforcement officers and witnesses.

Municipalities currently have the authority to implement administrative penalties for licensing bylaws. Technology-based offences can be enforced efficiently and effectively through administrative penalties and would provide an option for municipalities to operate ASE and recover costs.

Legislative changes are required to address the costs associated with ASE and the projected activity increase in the POA Courts

POA Courts staff have been lobbying the Ministry of Transportation to make amendments to the HTA that will allow for ASE charges to be administered under administrative penalties. The Association of Municipalities Ontario (“AMO”) and POA Court program administrators have also been lobbying the Ministry of the Attorney General to support changes necessary to allow technology-based offences including Red Light Cameras and speed enforcement to be administered through administrative penalties.

Section 21.1 of the HTA was enacted to allow for the Lieutenant Governor in Council to make a regulation prescribing administrative penalties for certain offences under the HTA and the regulations. The section has not yet been proclaimed and a regulation has not been enacted.

Local municipalities are encouraged to work with other Ontario municipalities and AMO to advocate for a regulation under s 21.1 of the HTA and the proclamation of that section that will allow for administrative penalties to be used for enforcement of the ASE and Red Light Camera programs.

## 5. Financial Considerations

Since the Region retains fine revenue from HTA offences in its POA Courts, the Region could operate ASE on its roads and retain fine revenue resulting from ASE offences. Future reporting on implementation would address the subject of expected cost-recovery. POA fines would offset such costs. Enforcement through administrative penalties could reduce the costs of enforcement by avoiding the costs associated with the POA courts.

## 6. Local Municipal Impact

If local municipalities in York Region implement ASE under Bill 65 as drafted, they will incur these operational costs without any revenue to offset those costs. A collaborative approach with the local municipalities and AMO is necessary to

advocate for the tools municipalities need to enforce ASE in a cost effective manner thereby responding to the safety issues local municipalities have identified within community safety and school zones. ASE offers a practical alternative to traffic calming-achieving the same desired behaviour by penalizing offenders. It provides another tool for municipalities to consider in addressing community concerns about speeding.

## 7. Conclusion

The proposed ASE provisions of Bill 65 are intended to be a benefit to municipalities. However for ASE to be effective it is necessary for a regulation to be enacted and section 21.1 of the HTA to be proclaimed so that administrative penalty provisions would apply to ASE and Red Light Camera programs.

For more information on this report, please contact Lisa Brooks, Director Court Operations 1-877-464-9675 ext. 73209

The Senior Management Group has reviewed this report.

January 27, 2017

Attachments (1)

7268200

Accessible formats or communication supports are available upon request.

Resolution of \_\_\_\_\_

Moved by \_\_\_\_\_

Seconded by \_\_\_\_\_

WHEREAS the Legislature introduced Bill 65 – *Safer School Zones Act, 2016* (Bill 65) on November 15, 2016 to repeal the existing photo radar provisions of the Highway Traffic Act (*HTA*) and replace them with provision for automated speed enforcement;

AND WHEREAS Bill 65 would allow municipalities, by bylaw, to implement and operate automated speed enforcement in community safety zones and school zones on roads under their jurisdiction;

AND WHEREAS municipalities would be responsible for the implementation and operational costs of automated speed enforcement on roads under their jurisdiction;

AND WHEREAS the bylaws designating community safety zones and school zones or implementing the automated speed enforcement would be enacted under the *HTA* and would create *HTA* offences;

AND WHEREAS *HTA* offences are administered through the *Provincial Offences Act* courts and any *HTA* fine revenue collected through the POA courts would be retained by the POA court program not the local municipality;

AND WHEREAS the *Municipal Act, 2001* authorizes municipalities to implement an administrative monetary penalty system for parking and licensing bylaws, and Bill 68 *Modernizing Ontario's Municipal Legislation Act, 2016* proposes to expand authority for administrative monetary penalties to other municipal bylaws;

AND WHEREAS penalties for offences arising out of enforcement through technology such as automated speed enforcement and red light cameras can be administered effectively and efficiently through an administrative monetary penalty system;

AND WHEREAS POA Court administration have been calling on the government to allow other technology-based offences including red light cameras to be administered through administrative penalties;

AND WHEREAS s. 21.1 of the *Highway Traffic Act* if proclaimed would allow for a regulation to be made authorizing enforcement of prescribed offences through administrative monetary penalties rather than the POA courts;

BE IT RESOLVED THAT Council requests the Minister of Transportation in conjunction with the Lieutenant Governor in Council to make a regulation pursuant to s. 21.1 of the *Highway Traffic Act*, that would allow for offences created by automated speed enforcement and red light cameras to be administered through the administrative monetary penalties and for the Attorney General to support the necessary changes to allow technology based enforcement of offences to be administered through administrative monetary penalties.