

Committee of the Whole (1) Report

DATE: Tuesday, December 3, 2024

WARD(S): ALL

TITLE: ADMINISTRATIVE PENALTIES BY-LAW AMENDMENTS

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This report provides an overview of the by-law updates necessary to implement the City's Automated Speed Enforcement ("ASE") system, as well as recommends that the current Administrative Monetary Penalties ("AMPs") By-law be repealed and replaced with a new Administrative Penalties ("APs") By-law, to include additional amendments that will clarify and align the City's current administrative and adjudicative processes related to dispute resolution with those required by ASE related legislation.

Report Highlights

- ASE was approved by Council in December of 2023 for implementation with an initial complement of ten speed cameras.
- To initiate the program, the City must meet certain requirements that include ministerial agreements, contracts with camera and ticket processing providers, system and process upgrades, and supporting by-law amendments.
- Although by-law amendments to implement ASE have received Council approval, staff are seeking to repeal and replace the existing AMPs and replace with a new by-law, which will include a number of other amendments to improve clarity and provide better alignment across the City's two administrative penalties programs, one being for ASE, and the other for all other by-laws that are enforced using administrative penalties.

Recommendation

1. THAT Council approve the recommendations discussed in this report, and that staff bring forward the required By-laws in a form and manner satisfactory to the Legal Services Department to implement these changes.

Background

On December 12, 2023, Council approved the implementation of the City's automated speed enforcement ("ASE") program. The launch would include the installation of ten mobile speed cameras, two in each Ward. Since receipt of approval, staff have worked to secure a speed camera provider, ensure ticket processing services, obtain ministerial approvals, and deploy internal resources to meet all program requirements. These internal requirements include amendments to the City's Administrative Monetary Penalties ("AMPs") By-law to ensure its provisions meet the requirements under O. Reg. 355/22 of the Highway Traffic Act, which lays out the process for issuing ASE tickets and providing a dispute process.

The amendments required to facilitate the ASE program include:

- amendments to the City's AMPs By-law to ensure its provisions meet the requirements under O. Reg. 355/22 of the Highway Traffic Act, which lays out the process for issuing ASE tickets and providing a dispute process;
- amendments to Traffic By-law, to update minor technical amendments recognizing ASE and correcting the spelling of street names to facilitate penalty orders;
- amendments to the Fees and Charges By-law, providing for administrative fees as prescribed in O. Reg. 355/22.

As a result of the review and necessary amendments required to bring the City's AMPs By-law into alignment with the provincial ASE regulations, staff also identified a number of enhancements that should be made to better clarify and align the program's administrative and adjudicative processes. Due to the number of changes being recommended, and because the name of the by-law and associated program is being changed to align with ASE related legislation, staff are recommending that the current AMPs by-law be repealed and replaced by a new APs By-law. As these amendments are not strictly related to ASE requirements and therefore require further authorization from Council.

Previous Reports/Authority

Committee of the Whole (Working Session) Report No. 50: [Automated Speed Enforcement ASE Implementation Plan](#), November 29, 2023.

Analysis and Options

ASE requirements are prescribed in O. Reg. 355/22 of the Highway Traffic Act, while requirements for administrative penalties for municipal by-laws are prescribed in O. Reg. 333/07 of the Municipal Act. Both regulations have similar requirements, although they do differ in some key areas. As part of the exercise to identify amendments required to implement ASE, staff identified some additional amendments to improve clarity and provide alignment between the two programs. These are identified in the following table:

	Proposed Amendment	Reason for Amendment	Expected Impact
1.	Repeal and replace the AMPs By-law, renaming it “Administrative Penalties By-law” in the process.	Numerous amendments, particularly relating to ASE, make it easier to repeal and replace. The new name reflects language used in both provincial regulations.	The new by-law will provide better organization of the provisions relating to both administrative penalty programs.
2.	Provide Screening and Hearing Officers with the authority to extend the time frame to request a screening or a hearing to dispute a Penalty Notice. This provision already exists under the requirements for ASE.	This authority is a requirement under ASE, but not for designated by-laws, for which the granting of such extensions is made by administrative staff. To ensure consistency across both administrative penalty programs, this authority is being shifted, for designated by-laws, from administrative staff to Screening and Hearing Officers.	This amendment is expected to provide procedural consistency across both programs, mitigating any confusion, especially amongst the public, with respect to who can grant an extension to request a screening or a hearing.
3.	Prescribe the reasons for granting a reduction of the amount of an administrative penalty, including the amounts by which such reductions	Whereas, prior to ASE the City only had two Screening Officers and two Hearing Officers, these numbers will now grow significantly,	This amendment, which will largely be implemented in associated policies and procedures, is expected to provide clear

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<p>may take place. These provisions will apply to both Penalty Notices (for designated by-laws) and Penalty Orders (for ASE).</p>	<p>creating a much more acute need to ensure consistency of decisions with respect to reductions.</p>	<p>requirements with respect to reductions and provide consistency across the amount of those reductions, ensuring fairness.</p>
<p>4. Prescribe the information required on a Penalty Notice.</p>	<p>Currently, with respect to the contravention, the AMPs By-law only indicates that a Penalty Notice is required to include the particulars. This amendment is intended to make explicit the information that is required with respect to the contravention being cited.</p>	<p>This amendment is intended to provide transparency as to the form of Penalty Notices.</p>
<p>5. Clarify the means by which screening and hearing reviews may be conducted. The proposed amendment would clarify that contraveners would be able to have a screening either by phone, online or by any other means approved by the Director. Hearings could be conducted either in person or virtually. In addition, the City Clerk shall be required to notify the contravener of hearing review details at least seven (7) days prior to such review.</p>	<p>The AMPs By-law currently does not specify the manner by which appeals may be conducted.</p>	<p>This amendment will provide greater clarity to the public as to how they may dispute an administrative penalty.</p>
<p>6. Clarify that once an administrative penalty is</p>	<p>This amendment is in line with provincial</p>	<p>This amendment will provide more clarity to</p>

	Proposed Amendment	Reason for Amendment	Expected Impact
	paid, it can no longer be appealed.	regulations; however, current by-law provisions are not as clearly articulated in the existing By-law.	the public as to their avenues of appeal and their limits.
7.	Add and amend definitions for clarity and to create enforceable terms.	This amendment is intended to provide explicit meanings for a number of existing terms in the by-law.	This amendment will provide greater clarity and transparency for the public.
8.	Various administrative amendments.	In reviewing the AMPs By-law, staff have identified opportunities for improvement.	These various amendments are intended to improve the overall functioning of the AP program and provide greater accountability and transparency.

Financial Impact

There are no additional financial implications to the City’s current or proposed budget as a result of the recommendations of this report.

Operational Impact

This report was prepared in consultation with the Office of the City Clerk, which oversees the hearings process for penalty disputes, and the City’s Legal Services Department.

As process requirements are different between those prescribed for ASE and those prescribed for administrative penalties under the Municipal Act, there will, effectively, be two differing administrative penalty systems working in parallel. This will create added complexity for both systems, process and staff. Over the course of 2025, staff will work to align these requirements in its by-law and policies and to reflect that alignment in its systems.

Broader Regional Impacts/Considerations

There are no direct broader regional impacts or considerations as a result of the recommendations of this report. However, since the City’s ticket processing for ASE will be carried out by the Town of Newmarket, under contract, formalized service level

agreements have been put in place and will be reflected in the City's ASE systems and processes.

Conclusion

Although approval was received from Council to amend any by-laws necessary to implement ASE, pursuant to Council's December 12 decision, staff identified, in their review process, a number of other beneficial amendments to provide better clarity and alignment for Penalty Notices (i.e., non-ASE administrative penalties). The greater clarity and transparency are particularly important given the migration of the hearings process to the Office of the City Clerk and therefore the shared responsibility of the administrative penalty dispute process. The amendments are expected to better support seamless and aligned processes and service delivery.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, ext. 8952.

Attachments

N/A

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