

City Manager's Office Report to
Priorities and Finance Committee
2017 June 09

ISC: UNRESTRICTED
PFC2020-0625

Administrative Penalties System Business Recommendation

EXECUTIVE SUMMARY

This report presents a business recommendation for establishing an Administrative Penalties System (APS) featuring a municipal tribunal to resolve parking and transit fare evasion appeals. Establishment of an APS program would: be consistent with justice reform developments across Canada; align with existing and evolving City enforcement processes; and, provide benefits to The City of Calgary (The City) and citizens through a cost-effective, streamlined, timely and customer-oriented dispute resolution system.

ADMINISTRATION RECOMMENDATION:

That the Priorities and Finance Committee (PFC) recommend that Council:

1. Direct Administration to proceed with negotiations with the Government of Alberta required to implement an Administrative Penalties System;
2. Direct Administration to prepare and present a Council Innovation Fund application to PFC on 2020 July 14 for one-time startup costs;
3. Direct Administration to engage key stakeholders on impacts of, and guiding principles for, establishing an Administrative Penalties System (APS); and,
4. Direct Administration to develop an Administrative Penalties Bylaw, and other related and necessary bylaw amendments, and present them at public hearing before 2020 December 31.

RECOMMENDATION OF THE PRIORITIES AND FINANCE COMMITTEE, 2020 JUNE 09:

That Council direct Administration to:

1. Proceed with negotiations required to implement an Administrative Penalties System;
2. Bring forward a Council Innovation Fund application to Priorities and Finance Committee for one-time startup costs;
3. Engage key stakeholders on establishing an Administrative Penalties System (APS); and
4. Develop an Administrative Penalties Bylaw, and other related and necessary bylaw amendments, and present them at public hearing in 2020.

HIGHLIGHTS

- The City Charter provides The City with authority to establish an Administrative Penalties System with a municipal tribunal to resolve parking and transit fare evasion appeals.
- Establishing a tribunal would improve the convenience and accessibility of challenging alleged violations for Calgarians, and help reduce costs for The City.
- Instead of challenging parking tickets through inconvenient and time-consuming appearances in court, citizens could file an appeal with a municipal tribunal. City costs would be reduced because fewer resources would be required to respond to appeals.
- A tribunal can deal with these matters faster, less formally and at less cost than a court because the City Charter allows for an adjudicative process with a burden of proof and rules of evidence which are proportional to alleged bylaw offences.

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- At its 2020 January 13 Combined Meeting, Council received an update on City Charter authorities, including an update on implementation of a municipal tribunal.
- Establishing an APS aligns with Council Directives for a Well-Run City.

PREVIOUS COUNCIL DIRECTION / POLICY

At its 2020 January 13 Combined Meeting, Council received an update on City Charter authorities, including an update on implementation of a municipal tribunal.

BACKGROUND

Intergovernmental Affairs and Corporate Strategy (ICS) presented report ALT2017-1005 at Administrative Leadership Team's (ALT) 2017 July 25 meeting and ALT directed the City Clerk's Office to lead further investigation and refinement of a recommendation for establishing a municipal tribunal and to conduct a review of the capital investments that would be needed to implement an APS.

On 2018 April 04, the *City of Calgary Charter, 2018 Regulation* established, amongst other things, an authority for The City to establish an APS encompassing parking and transit fare evasion violations.

On 2020 February 18, ALT directed the City Clerk's Office to engage key stakeholders and present the Business Recommendation for an APS, along with a funding strategy, to Council through the Priorities and Finance Committee.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

City of Calgary bylaw contraventions represent a significant volume of cases for adjudication by the Alberta Provincial Court. This traditional approach is inefficient and inconvenient for citizens, and expensive for The City and the Courts.

The City Charter provides The City with authority to establish an APS limited to parking and transit fare evasion matters. The purpose of an APS is to encourage compliance and promote changes in behaviour, and to have responses to contraventions that are proportional to offences. Administrative penalty systems are becoming widely accepted and adopted throughout various Canadian jurisdictions as alternatives to enforcement in Courts.

Under an APS, violations are appealed to a tribunal. Tribunals are less formal, more flexible and faster than the Courts. For the public, this means an easier process to dispute and resolve violations, and a more convenient way to participate in challenging decisions that impact them. For The City, this means reducing the number of resources required to respond to appeals, owing to a different burden of proof and rules of evidence than are currently applied in court.

The Business Recommendation (Attachment 1) provides further background information, an assessment of readiness, an evaluation of APS benefits, an APS model framework proposal, and identifies costs and financial impacts, including a funding strategy for start-up costs and a proposed operational budget of an Administrative Penalties Tribunal (APT). An APS for Calgary should focus on opportunities to improve: early resolution of disputes, limiting the number of cases requiring adjudication; public education; and, the fast, direct collection of penalty revenue.

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Calgary Parking Authority's current enforcement program aligns with an APS. Since the development of this Business Recommendation, Calgary Transit has moved forward with a number of initiatives that align its enforcement program with an APS, including: administrative penalty notices, early payment options, administrative review, and direct revenue collection.

If Council directs establishment of an APS, and start-up funding for facilities and information systems is secured, the City Clerk's Office would hire a dedicated limited term project manager to ensure that sufficient leadership capacity is in place to move the work of implementation forward, with the objective of implementing the program no later than the end of 2021.

Stakeholder Engagement, Research and Communication

Representatives from Calgary Community Standards, Calgary Parking Authority, Calgary Transit, City Clerk's Office, Customer Service and Communications, Facilities Management, Finance, Information Technology and Law were involved in the development of the Business Recommendation.

Development of the Business Recommendation has involved input from a broad range of internal partners and stakeholders, as well as preliminary discussions with Provincial officials and a study of leading practices in other jurisdictions (Attachment 3).

Successful implementation of an APS would rely on continuation of a cooperative and collaborative working relationship with Service Alberta. More comprehensive discussions will need to occur with Service Alberta to obtain assurance that the Registrar will continue the restriction of service to customers that have unpaid penalties.

Plans for engagement of key stakeholders directed by ALT in February was disrupted by COVID-19 impacts to The City's Appeals & Tribunals service, and would resume in the weeks ahead if Council directs this work to proceed.

Strategic Alignment

This project delivers on 2019-2022 Council Directives for a Well-run City, and specifically Strategic Action W2: "The City must work on improving the value of municipal services delivered by simplifying and streamlining processes and procedures, cutting red tape, eliminating service silos, and discontinuing those services that The City should not be providing."

Social, Environmental, Economic (External)

An APS program featuring early resolution options, alternative remedies and discretion to provide compassionate relief could be considerably more responsive and efficient in meeting the needs of marginalized or vulnerable populations than the current court-based process. An APS program would align with existing and evolving Calgary Transit enforcement initiatives to improve the response to non-compliance by marginalized or vulnerable populations.

Financial Capacity

Further investigations are necessary to confirm the operating and capital budget, in particular, discussions with the Province respecting the possibility of shared responsibility for funding, and

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the costs of integrating City and Provincial IT systems. A funding strategy for meeting the start-up expenses, and APT operating budget, is contained in the Business Recommendation (Attachment 1). A new, detailed budget would be presented for Council's consideration during the 2020 mid-cycle budget adjustment process in November.

Current and Future Operating Budget:

The annual cost for The City to operate an APS is estimated at \$570,000; however, resolving appeals through a municipal tribunal, rather than by a court, would free City resources in administrative and enforcement teams. The annual cost of these resources is approximately \$1.0 million. Administration would monitor the financial impact of the APS program and report back to the Priorities and Finance Committee.

Current and Future Capital Budget:

The APS will require approximately \$1.1 million of start-up funding, including capital expenditures associated with a tribunal facility (\$150,000), and software solutions (\$500,000) that can effectively manage approximately 2,000 appeals filed annually, and integrate payment data with Service Alberta and/or other Provincial IT systems. Applications for Council Innovation Fund and IT development pool funds are proposed for meeting most of these one-time start-up costs, the remainder of which are proposed to be paid from operating budgets of City Clerk's, Calgary Parking Authority and Calgary Transit.

Risk Assessment

Risks associated with implementation of an APS include the possibility of changes to the current operating environment, including possible changes to the governance of Calgary Parking Authority (CPA) that are currently under review, and the possibility of changes to the City Charter.

REASONS FOR RECOMMENDATIONS:

An APS would improve the convenience and accessibility of challenging transit and parking violations for Calgarians, and would help reduce resource requirements for The City to enforce and prosecute these matters.

ATTACHMENT(S)

Attachment 1 - Administrative Penalties System Business Recommendation

Attachment 2 - Administrative Monetary Penalty System Leading Practices Summary