

Administrative Penalties System Program Update

RECOMMENDATION:

That the Priorities and Finance Committee recommend that Council defer development of an Administrative Penalties Bylaw, and other related and necessary bylaw amendments, for presentation at public hearing to no later than Q2 2022.

HIGHLIGHTS

- In 2018, The City of Calgary (The City) Charter Regulation came into force, granting The City authority to establish an Administrative Penalties System (APS) program to address parking and transit fare evasion matters.
- A pause in implementation of the APS program, due to lack of clarity of the implications of Phase three of the Alberta Justice Transformation Initiative (JTI), will ensure that The City's resources to modernize the administration and adjudication of bylaw offences are aligned with the Province's justice reform initiatives.
- What does this mean to Calgarians? Pausing this work will help preserve City resources and allow prioritization of other work in the short term, ensuring that services that are developed and delivered represent good value for Calgarians.
- Why does it matter? The province is in the process of implementing a provincial tribunal system to lessen the burden upon the court system. The scope and financial model of this new system is not yet defined in relation to bylaw offences. To ensure prudent identification of any resulting service gaps for municipal bylaw charges and a solid comparative financial analysis to be complete further details from the province need to be understood.
- At its 2020 December 14 Combined Meeting, Council approved deferral of the Administrative Penalties Bylaw to 2021 June 30 (C2020-1430).
- Strategic Alignment to Council's Citizen Priorities: A well-run city
- Background and Previous Council Direction is included as Attachment 1.

DISCUSSION

In 2018, The City of Calgary Charter Regulation came into force, granting The City authority to establish an APS Program to address parking and transit fare evasion matters.

In 2020 July, Council approved implementation of an APS system (PFC2020-0625), and funding for certain start-up costs through the Council Innovation Fund (PFC2020-0738). The business recommendation for an APS demonstrated that an APS would provide advantages over the current court-based process for challenging alleged bylaw offences, including more convenient and timely access to justice for Calgarians, and a more efficient and less costly adjudicative regime.

At almost the same time, the Province proceeded with justice reforms by passing Bill 21, the Alberta *Provincial Administrative Penalties Act* (2020 July 23). The JTI will divert the adjudication of a broad number of non-criminal matters from Traffic Court to a provincial tribunal. Phase one of the JTI was implemented in late 2020, with the

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diversion of impaired driving-related contraventions of the *Traffic Safety Act* (TSA). Phase two of the JTI is anticipated to divert additional TSA matters to the provincial tribunal by the end of 2021. All remaining offences (including municipal bylaws) presently processed by provincial traffic court division are to be addressed by the province after the full implementation of phase two.

The APS Program has made progress on implementation through five different work streams: developing technical systems and integrations, establishing a penalties appeal board, establishing legal authorities (at its 2020 December 14 Combined Meeting, Council approved deferral of the Administrative Penalties Bylaw to 2021 June 30), strengthening provincial partnerships and adopting parking and transit fare evasion matters into the APS. Notable progress to date includes near completion of a detailed business process review, completion of public engagement and substantial progress on bylaw development.

Further progress on the APS Program is dependent on strengthening collaboration with the Province to advance technical and data sharing matters. Requests to the Province for support and access to technical resources to advance this work have not produced results to date.

On 2021 April 15, City Manager Duckworth sent the Deputy Minister of Justice a letter inquiring about the Province's intentions with respect to the scope of Phase three of the JTI, to identify whether there is alignment with The City's APS Program, or whether The City should work with the Province to transition bylaw enforcement appeals to the provincial tribunal, and if so what the role and contribution of the City of Calgary might be.

Although proceeding with implementation of an APS for The City would yield better access to justice for the public, better respond to the needs of marginalized populations and minimize risks to City revenue, diversion of bylaw enforcement appeals to a provincial tribunal may cost The City less, as APS start-up costs and annual operational funding for a municipal tribunal would not be required.

Regardless of whether or not there is a pause on APS Program implementation, the APS Program will need to continue to support the work of Calgary Community Standards to identify and align support for bylaw enforcement appeals with the implications of JTI, as it is clear that these matters will have a new adjudicative forum starting no later than 2023. This work will continue to require ongoing collaboration and contributions across the Corporation, including from Calgary Community Standards, the Calgary Police Service, Law, City Clerk's, as well as Intergovernmental Affairs and Corporate Strategy.

The Executive Leadership Team was provided with a briefing signalling Administration's intention to propose a deferral in APS program implementation to Council.

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STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

IMPLICATIONS

Social

Not applicable.

Environmental

Not applicable.

Economic

Not applicable.

Service and Financial Implications

No anticipated financial impact

There are no operating budget requests associated with this report. If Council approves the recommendations, spending on facilities and systems development will pause, and the resources working on implementation of an APS Program will be assigned to other priorities, pending further communication from provincial officials and direction from Council.

RISK

Until there is greater clarity about the Province's intentions with respect to Phase three of the JTI, there are risks in continuing to expend valuable City resources on APS implementation, if there is a possibility that a provincial tribunal adjudicating bylaw enforcement appeals may be operated and funded by the Province.

Pausing implementation will disrupt resourcing of the APS Program's work and impact the timelines upon which an APS Program could be launched. Resuming APS Program implementation would likely be dependent on the responsiveness of the Province and availability of technical and subject matter resources, but everything that can be done to preserve the state of the APS Program's work and availability of resources in the interim, is being done.

**City Manager's Office Report to
Priorities and Finance Committee
2021 May 18**

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ATTACHMENT

1. Previous Council Direction, Background

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
Jill Floen	City Solicitor	Consult