

**Subject: An Administrative Penalty System (APS) for Parking and Camera-Based Automated Enforcement Violations for the City of Ottawa**

**File Number: ACS2024-FCS-SO-0001**

**Report to Finance and Corporate Services Committee on 7 May 2024  
and Council 15 May 2024**

**Submitted on April 26, 2024 by Robert Giggey, Director, ServiceOttawa (A)**

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**Ward: Citywide**

**Objet : Un Régime de sanctions administratives pécuniaires (RSAP) pour les infractions relatives au stationnement et les infractions captées par des caméras de contrôle automatisé pour la ville d'Ottawa**

**Dossier : ACS2024-FCS-SO-0001**

**Rapport au Comité des finances et des services organisationnels le 7 Mai 2024  
et au Conseil le 15 Mai 2024**

**Soumis le 26 avril 2024 par Robert Giggey, Directeur (I), ServiceOttawa**

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**Quartier : À l'échelle de la ville**

## **REPORT RECOMMENDATIONS**

**That the Finance and Corporate Services Committee recommend that Council approve:**

- 1. The establishment of an Administrative Penalty System (APS) for the enforcement, processing, and resolution of parking by-law contraventions, red-light camera and automated speed enforcement contraventions**

detected by camera systems, in accordance with the *Municipal Act, 2001*, Regulation 333/07, and the *Highway Traffic Act, 1990*, Regulation 355/22, in place of the current system administered under the *Provincial Offences Act (POA)*, as further described in this report;

2. The APS By-Laws and APS Appointment By-Law, substantially in the form set out in Documents 1 and 2 and 3 of this report, and delegate the authority to the City Solicitor to finalize the required by-laws;
3. The APS Conflict of Interest Policy and the APS Prevention of Political Interference Policy set out in Documents 4 and 5 of this report, as required by the *Municipal Act, 2001*, Regulation 333/07, and the *Highway Traffic Act, 1990*, Regulation 355/22.

### **RECOMMANDATION(S) DU RAPPORT**

Que le Comité des finances et des services organisationnels recommande au Conseil d'approuver :

1. La mise en place d'un Régime de sanctions administratives pécuniaires (RSAP) pour l'application, le traitement et la résolution des contraventions relatives aux règlements sur le stationnement, des contraventions liées à une infraction relative aux feux rouges et des contraventions liées à une infraction captée au moyen de systèmes de caméras de contrôle automatisé de la vitesse, conformément à la *Loi de 2001 sur les municipalités*, Règl. de l'Ont. 333/07, et au *Code de la route de l'Ontario (1990)*, Règl. de l'Ont. 355/22, afin de remplacer le système actuel administré en vertu de la *Loi sur les infractions provinciales (LIP)*, comme il est décrit plus en détail dans le présent rapport;
2. Les règlements sur le Régime de sanctions administratives pécuniaires (RSAP) et le règlement sur la nomination liée au RSAP, essentiellement sous la forme présentée dans les documents 1, 2 et 3 du présent rapport, ainsi que la délégation à l'avocat général du pouvoir de finaliser les règlements requis;
3. La mise en place d'une politique en matière de conflits d'intérêts pour le RSAP et d'une politique en matière de prévention de l'ingérence politique pour le RSAP, lesquelles sont énoncées dans les documents 4 et 5 du présent rapport, conformément à la *Loi de 2001 sur les municipalités*, Règl. de l'Ont. 333/07, et au *Code de la route de l'Ontario (1990)*, Règl. de l'Ont. 355/22.

## EXECUTIVE SUMMARY

Staff recommend the implementation of an Administrative Penalty System (APS) for the City of Ottawa to replace the current Provincial Offences Act (POA) model for adjudicating parking by-law and camera-based offences, specifically automated speed enforcement and red-light camera offences.

An Administrative Penalty System allows municipalities to transition adjudication of these minor infractions from the provincial courts system to a City-managed dispute resolution authority. More than 15 municipalities across Ontario - including but not limited to the Cities of Toronto, Hamilton, Mississauga, and Brampton - have had an Administrative Penalty System (APS) program in place for parking infractions for many years and are moving forward with transitioning programs to include camera-based contraventions.

Under an APS model, City staff who are designated Screening Officers, as well as Council appointed adjudicators (Hearing Officers) would manage the dispute and resolution processes for parking and camera-based (automated speed enforcement (ASE) and red-light camera (RLC)) infractions, removing the reliance on limited provincial resources and offering a more balanced, efficient service delivery approach to adjudication which is scalable and sustainable for the City.

In Ottawa, ticket volumes related to parking, automated speed enforcement and red-light camera programs grew 45 per cent in 2023 and are expected to grow 108 per cent in 2024 and 38 per cent in 2025. Trial demand will grow in line with ticket volume growth adding an additional estimated trial request volume of 15,000 in 2024 and 12,000 in 2025. The City relies on provincially appointed judicial resources to adjudicate trials and other POA matters. Currently, parking and automated enforcement contraventions make up over 95 per cent of all infractions in Ottawa, and the City only has access to two-thirds of the judicial resources as compared to levels prior to the COVID-19 pandemic. In this way, growth in high-volume, minor offences is consuming a growing proportion of court time, putting pressure on the allocation of limited judicial resources across all POA offences.

In response to this trend across Ontario, the Province implemented amendments to the *Municipal Act*, 2001 (O. Reg 333/07) in 2007 and the *Highway Traffic Act* (O. Reg 355/22) in 2022. These regulatory amendments permit municipalities to establish a system of Administrative Penalties for the enforcement of minor by-law infractions (including parking by-laws associated with contraventions respecting the parking, standing or stopping of vehicles), and camera-based violations associated with speed enforcement and red-light cameras, captured by automated enforcement systems.

The implementation of APS will improve service to the public and provide a fair, efficient, and timely process to manage minor offences and resolve ticket disputes. Operating under an APS model would also help promote public safety initiatives, such as those identified within the Road Safety Action Plan. Adoption of APS in Ottawa is also expected to lower ticket processing costs by 35 per cent and increase POA courts capacity to focus on adjudicating more serious offences.

As detailed further in this report, moving to an APS model would offer direct benefits for our City and residents, including:

- **Matters are heard faster.** Disputes will be heard within a few weeks or months. This offers a significant improvement in service delivery when compared to the current process.
- **Less time required of the public.** Screening Officer reviews are conducted in writing and a fixed time for a further review by a Hearing Officer can be provided.
- **Overall reduction in disputes.** Under APS regimes, the percentage of matters going to a Hearing Officer has trended downwards since inception relative to prior POA regimes.
- **Public Satisfaction.** While APS does not involve the same procedure as POA adjudications, clients are still afforded a fair hearing in front of a trained, neutral decision maker, ensuring a fair and efficient method of resolving penalty disputes.
- **Process Improvement.** Ability to modernize technology to digitize processes, improve administrative efficiencies, and improve customer service.
- **Improve/Maintain Program Efficacy.** Ensuring the long-term efficacy of the traffic and parking enforcement programs and the resulting investments into future road safety initiatives.
- **Alignment of Judicial Resourcing.** Improving the capacity of POA courts to bring more serious matters to court, faster.

Staff suggest a phased implementation of APS in 2025, with targeted timeframes for parking in Q2 2025, followed by ASE and RLC in Q4 2025. Establishment of APS for parking in Q2 2025 and ASE and RLC in Q4 2025 will require Administrative Penalties By-Laws for both parking and camera-based infractions and an APS Appointment By-law to govern the appointment of Screening Officers and Hearing Officers.

The APS program and start-up costs will be fully funded by ASE, RLC and parking gross ticket revenues, and will not require any tax funding.

Staffing resources required to establish the new system in Ottawa will be addressed through the conversion of existing FTEs currently supporting POA, and will be transitioned accordingly to successfully run the APS program, once approved.

## RÉSUMÉ

Le personnel recommande la mise en œuvre d'un Régime de sanctions administratives pécuniaires (RSAP) pour la Ville d'Ottawa, afin de remplacer le modèle actuel de la *Loi sur les infractions provinciales* (LIP) pour le jugement des infractions aux règlements relatifs au stationnement et des infractions liées aux caméras, en particulier les

infractions liées au contrôle automatisé de la vitesse et les infractions relatives aux caméras aux feux rouges.

Un RSAP permet aux municipalités de transférer le jugement de ces infractions mineures du système judiciaire provincial à une autorité de résolution des litiges gérée par la Ville. Plus de 15 municipalités de l'Ontario – notamment les villes de Toronto, Hamilton, Mississauga et Brampton – ont mis en place depuis de nombreuses années un RSAP pour les infractions relatives au stationnement et s'apprêtent à faire évoluer leurs programmes pour y inclure les contraventions liées à des infractions captées à l'aide d'une caméra.

Dans le cadre d'un RSAP, les membres du personnel municipal désignés vérificateurs indépendants et les arbitres (ou agents d'audience) nommés par le Conseil municipal gèrent les procédures aux litiges et à la résolution des infractions liées au stationnement et aux caméras (contrôle automatisé de la vitesse [CAV] et caméras de surveillance aux feux rouges [CSFR]), ce qui permet de ne plus dépendre des ressources provinciales limitées et d'adopter une approche de prestation de services plus équilibrée et plus efficace en ce qui a trait au processus décisionnel, laquelle serait évolutive et durable pour la Ville.

À Ottawa, le nombre de contraventions liées au stationnement, au contrôle automatisé de la vitesse et aux caméras de surveillance aux feux rouges a augmenté de 45 % en 2023; on prévoit qu'il augmentera de 108 % en 2024 et de 38 % en 2025. Le nombre de demandes d'audience augmentera parallèlement au nombre de contraventions; on prévoit 15 000 demandes d'audience supplémentaires liées aux contraventions en 2024 et 12 000 demandes d'audience supplémentaires en 2025. La Ville s'appuie sur les ressources judiciaires nommées par le gouvernement provincial pour les audiences et pour toutes autres questions relatives à la LIP. À l'heure actuelle, les contraventions relatives au stationnement et au contrôle automatisé représentent plus de 95 % de toutes les infractions commises à Ottawa, et la Ville n'a accès qu'aux deux tiers des ressources judiciaires auxquelles elle aurait eu normalement avant la pandémie de COVID-19. En raison de cela, l'importante augmentation du nombre d'infractions mineures demande de plus en plus de temps aux tribunaux, ce qui exerce une pression sur l'allocation des ressources judiciaires limitées pour l'ensemble des infractions à la LIP.

En réponse à cette tendance dans l'ensemble de l'Ontario, le gouvernement provincial a apporté des modifications à la *Loi de 200 sur les municipalités* (Règl. de l'Ont. 333/07) en 2007 ainsi qu'au *Code de la route de l'Ontario* (Règl. de l'Ont. 355/22) en 2022. Ces modifications réglementaires permettent aux municipalités d'établir un RSAP pour intervenir face aux infractions mineures aux règlements (y compris les règlements relatifs au stationnement en lien avec les contraventions portant sur le stationnement, l'immobilisation ou l'arrêt de véhicules) et aux infractions captées par des systèmes de contrôle automatique, comme les infractions liées au contrôle de la vitesse captées par radar et les infractions captées par des dispositifs photographiques reliés aux feux rouges.

La mise en œuvre d'un RSAP améliorera le service au public et offrira une procédure juste, efficace et rapide pour gérer les infractions mineures et résoudre les litiges relatifs aux contraventions. Le RSAP contribuerait également à promouvoir les initiatives en matière de sécurité publique, comme celles qui sont relevées dans le Plan d'action en matière de sécurité routière. L'adoption d'un RSAP à Ottawa devrait également permettre de réduire les coûts de traitement des contraventions de 35 % et d'augmenter la capacité des tribunaux de la LIP à se concentrer sur le jugement des infractions plus graves.

Comme indiqué plus en détail dans ce rapport, le passage à un RSAP bénéficierait directement à notre ville ainsi qu'à ses résidentes et résidents. Parmi les avantages, citons notamment :

- **Les affaires sont entendues plus rapidement.** Les litiges seront traités dans un délai de quelques semaines ou de quelques mois. Il s'agit d'une importante amélioration par rapport au processus actuel.
- **Il faudra moins de temps de la part du public.** Une heure fixe d'audience peut être établie.
- **On peut réduire globalement le nombre de litiges.** La mise en œuvre d'un RSAP a tendance à faire diminuer le pourcentage d'affaires soumises à un agent d'audience par rapport aux régimes antérieurs de la LIP.
- **Le public est satisfait.** Bien qu'on procède différemment dans le cadre du RSAP que lors des décisions de la LIP, les clientes et les clients bénéficient toujours d'une audience juste devant un décideur formé et neutre, ce qui garantit une méthode juste et efficace de résolution des litiges en matière de sanctions pécuniaires.
- **Le processus est amélioré.** Il est possible de moderniser la technologie pour numériser les processus et améliorer l'efficacité administrative ainsi que le service à la clientèle.
- **Cela améliore/maintient l'efficacité du programme.** On veille à maintenir les programmes de contrôle de la circulation et de stationnement efficaces à long terme; les investissements qui découlent de ces programmes seront attribués aux futures initiatives de sécurité routière.
- **On veille à l'harmonisation avec les ressources judiciaires.** On améliore la capacité des tribunaux de la LIP à signaler les affaires plus graves aux tribunaux, et ce, plus rapidement.

Le personnel suggère une mise en œuvre progressive d'un RSAP en 2025, avec des délais ciblés pour les infractions relatives au stationnement lors du deuxième trimestre (T2) de 2025, puis pour les infractions relatives aux CAV et au CSFR au quatrième trimestre (T4) de 2025. La mise en place d'un RSAP pour les infractions relatives au stationnement au T2 de 2025 et aux CAV et au CSFR au T4 de 2025 nécessitera un règlement sur les sanctions administratives pour les infractions liées au

stationnement et aux caméras, ainsi qu'un règlement relatif au RSAP pour régir la nomination des agents de contrôle et des agents d'audience.

Les coûts associés au programme du RSAP et les frais de démarrage seront entièrement financés par les contraventions générées par le système de contrôle automatisé de la vitesse et au système d'appareils photo reliés aux feux rouges et par les recettes brutes des contraventions de stationnement; ainsi, aucun financement par l'impôt n'est nécessaire.

La question des ressources en personnel nécessaires à la mise en place du nouveau système à Ottawa sera résolue grâce à la conversion des postes équivalent temps plein (ETP) existants qui soutiennent actuellement la LIP; ils seront transférés en conséquence pour gérer avec succès le programme RSAP, une fois celui-ci approuvé.

## BACKGROUND

In 1997, the Province enacted Bill 108, the *Streamlining of Administration of Provincial Offences Act*. The Bill was part of the provincial government's overall review and realignment of public service delivery and transferred responsibilities for provincial offences to the local municipality, including court administration and prosecution responsibilities.

Effective March 19, 2001, the year of amalgamation, the City of Ottawa assumed responsibility for the administration of the *Provincial Offences Act* (POA) for offences committed within the City's jurisdiction. The POA sets out three distinct streams for commencing prosecutions of provincial offences before a judge or justice of the peace:

- Part I, which governs various minor offences such as vehicle speeding with fines less than \$1,000. Part I proceedings are simple offences commenced by a certificate of offence for which set fines (approved by the Ontario Court of Justice) can be applied via the issuance of a ticket.
- Part II, which deals exclusively with parking offences are similar to the Part I process. Part II proceedings involve the issuance of a parking infraction notice with the amount of a set fine for a by-law parking infraction. The set fines are approved by the Ontario Court of Justice.
- Part III, which is for serious offences that require resolution by a justice of the peace and cannot be resolved through the payment of a set fine. For Part III POA proceedings, charges are laid by a sworn Information and brought before a justice of the peace for a hearing and can result in more severe penalties. For example, these involve offences under the *Building Code Act*, *Fire Protection and Prevention Act*, *Health Protection and Promotion Act*, and *Smoke Free Ontario Act*.

## **Current State: The Provincial Offences Act (POA)**

The POA is a procedural statute that prescribes the way provincial offences are to be administered and prosecuted. In essence, all POA contraventions are initiated through the issuance of a ticket or swearing an Information and issuing a Summons. The POA prescribes the manner of serving notice of an offence to a defendant, payment periods, method of conducting the trials, sentencing and appeals.

The scope of this report does not intend to address Part III offences, which will continue to be processed under the POA. Specifically, this report will address Red Light Camera and Automated Speed Enforcement tickets which are currently issued under Part I and Parking tickets which are currently issued under Part II of the POA. These Part I and Part II offences make up over 95 per cent of POA offences for the City of Ottawa.

### *Part I – Camera-Based Infractions*

For camera-based infractions (such as a red light or automated speed camera), the current process is prescribed under the *Highway Traffic Act, 1990*, Regulation 277/99 respecting Red Light Camera System Evidence and Regulation 398/19 respecting Automated Speed Enforcement.

Pursuant to the enabling regulations, the camera system captures the offence, the infraction is certified by a Provincial Offence Officer, and the offence notice is mailed to the defendant plate holder.

Under POA, a defendant who receives an offence notice may:

- **Pay the Fine.**
- **Plea of Guilty with Submissions as to Penalty:** If the defendant does not wish to dispute the charge but seeks a reduced fine or an extension of time to pay, they may elect to appear before a Justice of the Peace (JP) within a timeline specified in the offence.
- **Request a Trial and a meeting with the prosecutor.**
- **Request an Appeal:** Following a trial and conviction, a defendant can seek to appeal the conviction, fine or any other order to a judge in provincial court. The judge may subsequently decide to dismiss the appeal, allow the appeal and either enter a finding of guilt or order a new trial back to POA court.

The POA prescribes that a defendant who does not take one of the above actions by day 45 will be sent a Notice of Fine & Due Date through the mail. After 90 days of no activity, the City can transfer outstanding tickets to collections and/or send tickets to the Ministry of Transportation (MTO) to deny the plateholder the ability to renew their license plates before the fine and any applicable fees are paid.

### *Part II – Parking Infractions*

Part II POA infractions are prescribed in sections 14 and 15 as parking infractions that may be referenced under a by-law associated with “any unlawful parking, standing or stopping of a vehicle that constitutes an offence”. An enforcement officer serves a parking infraction notice (i.e. Parking ticket) either personally to the defendant or by affixing it to the vehicle.

Under POA, a defendant who receives a Part II offence notice may, similarly to Part I proceedings:

- **Pay the Fine**
- **Request a Trial**
- **Request an Appeal**

Pursuant to section 18 of the POA, a defendant who does not pay the set fine or request a trial within 35 days after the offence occurred will be sent a Notice of Impending Conviction through mail. If a defendant continues to take no action, section 18.2 of the POA provides that the defendant shall be deemed not to dispute the charge, if fifteen days have elapsed since the defendant was given notice. A Notice of Fine and Due Date is subsequently sent notifying the defendant of conviction by default. After 110 days of no activity the City can transfer outstanding tickets to collections and/or send outstanding tickets to MTO for plate denial.

### **Introduction of Administrative Penalty Systems & History of Related Regulatory & Legislative Changes**

Since the enactment of Bill 108, the *Streamlining of Administration of Provincial Offences Act*, various provincial reviews and legislative and regulatory amendments have provided more enforcement choices to municipalities for Part I and Part II offences.

Ontario's *Municipal Act, 2001* was amended (O. Reg 333/07) in 2007, permitting municipalities to establish a system of administrative penalties for the enforcement of minor by-law infractions, including parking by-laws. Under the provisions of the *Municipal Act, 2001*, the decision to create an administrative penalties system (APS) is with the municipality. Section 102.1 of the *Municipal Act, 2001* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles. For minor by-law infractions, subsection 434.1(2) of the *Municipal Act, 2001* provides that the purpose of a system of administrative penalties established by a municipality under this section is "to assist the municipality in promoting compliance with its by-laws".

If a municipality chooses to set up an APS for a parking contravention, or a by-law contravention that may be resolved through the payment of a set APS penalty, the POA no longer applies to that contravention. Since 2007 and subsequent changes in 2015 to increase the eligibility of offences, many municipalities across Ontario have implemented APS for the enforcement of by-law infractions by way of APS penalty, including parking by-laws.

In 2011, the Law Commission of Ontario (LCO) produced a report, *Modernization of the Provincial Offences Act*. Part of the analysis provided provincial data on courtroom operating hours for 2009. The figures analyzed and provided by the LCO demonstrated that the majority of judicial resourcing on POA matters were being used to adjudicate Part I and II offences, with 80 per cent of Part I offences falling under the *Highway*

*Traffic Act (HTA)*. The LCO put forward several recommendations, including recommending that the Ontario government conduct a review of Part I proceedings, particularly minor *HTA* offences, to assess which offences may be better enforced under an APS regime. Subsequently, Ontario's *Highway Traffic Act* was amended (O. Reg 355/22) in 2022 to permit municipalities to establish a system of administrative penalties for the enforcement of camera-based contraventions captured by automated enforcement systems.

### **Consultant Recommendation**

In 2023, ServiceOttawa engaged with an external consultant to conduct an analysis and provide recommendations to determine whether the City should adopt APS. The consultant reviewed opportunities for the City to adopt APS, requirements of the program and made recommendations on how to structure the transition. The consultant recommended the City implement an APS program in two phases, starting with parking, followed by camera-based offences. A phased approach was recommended to allow appropriate set up of the infrastructure and resources required to implement an APS and be able to leverage lessons learned and operational experience to later implement camera-based offences.

The enforcement of regulatory offences, including those for parking, red light cameras, and automated speed enforcement are not designed to be revenue generation tools for municipalities. The fines and penalties associated with these offences are for the purpose of improving the flow of traffic and deterring behavior which has been determined to be a risk to public safety.

### **Administrative Penalty System**

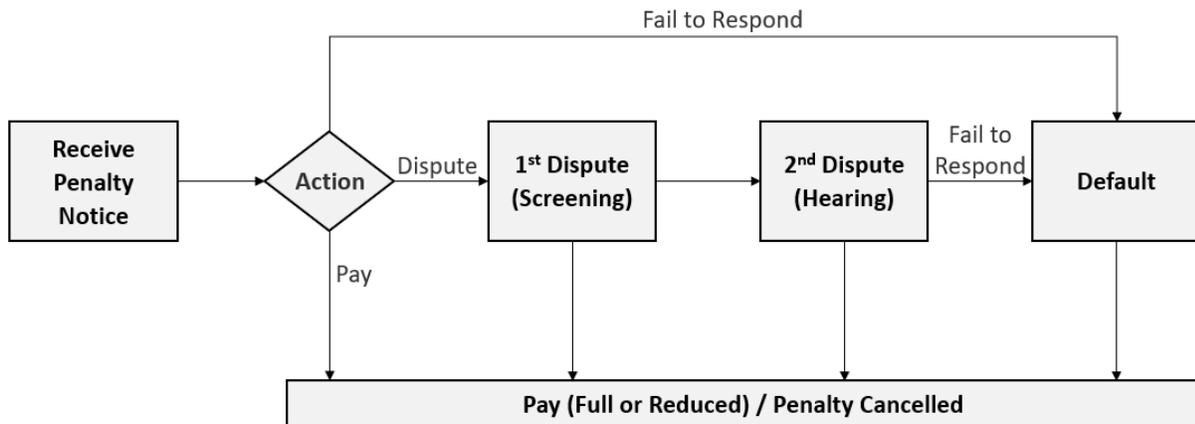
Administrative Penalty Systems allow for monetary penalties to be imposed by a municipality for a contravention of a prescribed Act such as the *Highway Traffic Act, 1990*, associated Regulation respecting contraventions detected using camera systems or a designated By-Law enacted under the *Municipal Act, 2001*. A By-Law Officer, or a provincial offences officer issuing a photo-based offence detected by a camera system, issues an Administrative Penalty (AP) in accordance with Regulation 355/22 upon certifying that a contravention occurred, with the penalty due and payable. Rights of review that are made available under the APS scheme are prescribed by the *Highway Traffic Act, 1990* and Regulation 355/22.

Fines issued under the POA denote a quasi-criminal monetary penalty process, payable only after an admission of guilt or finding of guilt by a court proceeding. An Administrative Penalty does not contain this criminal element and is intended to reflect a more measured response to the contravention of a prescribed law or designated by-law, that carries with it a monetary sanction which are intended to promote compliance.

Figure 1: APS Workflow below outlines the high-level process for APS for parking by-law contravention and camera-based infractions, for those that want to pay or dispute their penalties.

- **Pay the Penalty**
- **Request a Screening Review:** Recipients may request a Screening Review by a Screening Officer. Screening Officers are municipal employees appointed by the Director of ServiceOttawa pursuant to the *APS Appointments By-law*, that review the evidence, submissions and affirm, vary, or cancel the penalty. In addition, a Screening Officer can provide an extension of time to pay a penalty. All decisions are to be guided by the *APS By-laws* along with policies and procedures as prescribed by the *Municipal Act, 2001 O. Reg 333/07* and *Highway Traffic Act, 1990 O. Reg 355/22*.
- **Request a Hearing Review:** Upon receiving a decision from a screening review, recipients can opt for a review of the Screening Officer's decision by a hearing officer. Hearing officers are not municipal employees, they are independent adjudicators appointed by Council pursuant to the recommendation of a selection panel as described in the *APS Appointments By-Law*. Hearing Officers operate at an arms length to the City with independent legal counsel. The appointment process is outlined in the *APS Appointments By-Law* which is conducted through a selection panel including the General Manager, Finance and Corporate Services Department, the Director of ServiceOttawa and the City Clerk and is supported by prescribed policies and procedures to prevent political interference and conflicts of interest. All decisions will be guided by the *APS By-laws* along with policies and procedures mandated as part of O. Reg 333/07 and O. Reg 355/22. The decision of a Hearing Officer is final.

Figure 1: APS Workflow



A recipient who does not pay the set penalty or request a screening review within 15 days after the penalty being issued will be sent a Notice of Overdue Parking Penalty through mail. An additional 15 days are provided to allow recipients to request an extension of time to request a screening review, totalling 30 days. If the recipient continues to take no action by day 30, a Notice of Impending Default will be sent notifying the recipient that their penalty will be considered overdue and in default after

60 days of no action. After 60 days of no activity, the City can transfer outstanding tickets to collections and/or send outstanding tickets to MTO for plate denial.

### Comparing APS to POA

Key differences between APS & POA include:

- ***Provincially vs Municipally Appointed Adjudicative Resourcing.*** Under POA, the province is responsible for appointing, training, and allocating Justice of the Peace resourcing to municipalities across Ontario for the adjudication of POA offences. Under APS, the municipality is responsible for appointing, arranging for training, and scheduling Hearing Officers for the secondary review of Administrative Penalties.
  - Training - Justices of the Peace (JP) on appointment do not require legal training. Each JP on appointment is provided with ten weeks of intensive workshops over a 12-14 month period, three weeks of which relate to the POA. Hearing Officers on appointment would be provided with the opportunity to obtain a certificate in Adjudication for Administrative Agencies, Tribunals and Boards. This program spans 5 modules over a 3-month period and is jointly provided by the Society of Ontario Adjudicators and Regulators (SOAR) and Osgoode Professional Development (York University).
- ***Timelines.*** A transition from POA to APS will improve infraction processing timelines as prescribed by the regulations, to deliver a more expedient dispute resolution process:
  - Parking Offences under APS
    - Timeline to make an initial dispute is 30 days.
    - Timeline for offences to be considered in default is 60 days.
  - Camera Based Offences under APS
    - Timeline to make an initial dispute is 45 days.
    - Timeline for offences to be considered in default is 75 days.
- ***Fine & Fee Amounts.***
  - Currently under POA, parking fine amounts are set by the City but must be approved by the Regional Senior Justice prior to implementation. Fine and fee amounts associated with Parking By-Law infractions under the APS program are established in the APS By-Law at the same prior fine rates. Any recommended updates through the budget process will reflect the requirements of the *Municipal Act, 2001* Regulation 333/07 respecting APS which provides in section 6 that the amount of an administrative penalty established by a municipality “shall not be punitive in nature” and “shall not exceed the amount reasonably required to promote compliance with a designated by-law”.

- For red light camera and speed enforcement contraventions detected by camera systems, the associated *Highway Traffic Act, 1990* Regulation 355/22 establishes the penalty amounts.

## DISCUSSION

This report presents and discusses the two available regulatory options for the City, for the enforcement, processing and resolution of parking by-law contraventions, ASE contraventions, and RLC contraventions.

The first, and recommended option, is to establish an Administrative Penalty System as a replacement of the current *Provincial Offences Act* (POA) process for the enforcement of parking and automated enforcement infractions. The second is the continued use of POA process for all offences, which is the current state and status quo for the City.

An Administrative Penalty System, as further explained below, will provide improved service to the public and ensure public satisfaction with a fair, efficient, and timely process to manage minor offences and resolve ticket disputes. Leveraging an APS program for minor offences will ensure the POA courts have sufficient capacity to focus on adjudicating more serious offences and will support the Road Safety Action Plan.

### **Recommended Option to Establish an Administrative Penalty System for Parking and Camera Contraventions as a Replacement of the Provincial Offences Act**

This recommended option would see the replacement of adjudication through the *Provincial Offences Act* with an Administrative Penalty System for ASE, RLC and parking contraventions, with all other offences continuing under POA.

### **Governance**

To examine this option, an APS project steering committee was established, and is comprised of representatives from ServiceOttawa, By-Law & Regulatory Services, Traffic Services, Revenue Services and Legal Services. The steering committee proposes that the APS program, once established, be managed by ServiceOttawa as this group currently oversees the administration and coordination of tickets through the POA program and delivers the associated public-facing services.

In this structure

- ServiceOttawa would oversee the administration of the APS program, consistent with its current role under POA.
- Legal Services would be responsible for the drafting of the applicable By-Laws and reviewing the Policies of the APS, in consultation with Traffic Services, By-Law & Regulatory Services and ServiceOttawa.

- The Office of the City Clerk would assist with the recruitment of Hearing Officers. The appointment of Hearing Officers is conducted in accordance with the Appointments By-law on recommendation of the selection panel to Council.
- Revenue Services would continue to oversee collections, financial reconciliation, and specific financial reporting and remittance requirements to the Ministry of the Attorney General and the Ministry of Transportation.

## **Analysis and Outcome**

Designated staff have conducted research, held in-depth consultations with partner municipalities, and have prepared detailed analysis in collaboration with core stakeholders across the organization through the steering committee to identify opportunities under an APS model, evaluate for expected benefits, and assess cost and resourcing.

### *Opportunities under APS*

- **Scalability to Meet Demand.** An APS offers the ability for municipalities to appoint and train sufficient numbers of Hearing Officers to meet demand. Scheduling of Hearing Officers can be scaled up or down according to demand, to ensure matters are heard within a timely fashion and to support the purpose and outcomes for the traffic and parking enforcement programs. As a result, the risk of revenue loss is eliminated, and the efficacy of the programs is upheld.
- **Technology Modernization & Processing Efficiencies.** Moving from the POA to an APS will provide the opportunity for the City to rationalize and modernize software and digitize manual processes. Investments in technology will alleviate administrative inefficiencies and improve service levels.

### *Expected Benefits of moving to an APS Program*

- **Matters are heard faster.** Disputes will be heard within a few weeks or months. This offers a significant improvement to service delivery when compared to the current process.
- **Less time required of the public.** Screening Officer reviews are conducted in writing and a fixed time for a further review by a Hearing Officer can be provided.
- **Overall reduction in disputes.** Under APS regimes, the percentage of matters going to a Hearing Officer has trended downwards since inception relative to prior POA regimes.
- **Public Satisfaction.** While APS does not involve the same procedure as POA adjudications, clients are still afforded a fair hearing in front of a trained, neutral decision maker, ensuring a fair and efficient method of resolving penalty disputes.
- **Process Improvement.** Ability to modernize technology to digitize processes, improve administrative efficiencies, and improve customer service.

- **Improve/Maintain Program Efficacy.** Ensuring the long-term efficacy of the Traffic and parking enforcement programs and the resulting investments into future road safety initiatives.
- **Alignment of Judicial Resourcing.** Improving the capacity of POA courts to bring more serious matters to court, faster.

### *Core Requirements of an Administrative Penalty System*

Detailed requirements are outlined in *Municipal Act, 2001 O. Reg 333/07* and *Highway Traffic Act, 1990 O. Reg 355/22*, however, the core requirements across both regulations irrespective of penalty type are as follows:

#### 1. By-Laws

Under the regulations governing the APS program in Ontario, municipalities are required to pass the following By-laws:

- **APS By-Law:** A By-Law formally authorizing the program and defining the processes, roles and responsibilities, penalties and fees.
  - Penalties and fees for parking infractions are established in the associated APS By-Law. Any amendments to parking related penalties and fees will be coordinated through the annual budgeting process by the Director of ServiceOttawa and By-law and Regulatory Services. The APS By-law associated with contraventions captured by cameras include penalties that are prescribed by *Highway Traffic Act, 1990 O. Reg. 355/22*.
- **APS Appointment By-Law:** A By-Law authorizing the municipality's process to appoint Hearing Officers.

#### 2. Policies and Procedures

Pursuant to *Municipal Act, 2001 Regulation 333/07*, section 7, a municipality that decides to implement an APS is required to establish policies and procedures in the following areas for administration of the APS:

- Conflict of Interest
- Prevention of Political Interference
- Public Complaints
- Financial Management & Reporting
- Financial Hardship
- Extension of time to request a Screening or Hearing Review

APS legislation is designed to uphold the same principles which guide the POA. As per the enabling statutes and regulations, controls will be established by the City to ensure

a fair and efficient method of resolving penalty disputes. Policies and procedures will be established to ensure:

- As prescribed by section 8 of Reg. 333/07, recipients can obtain financial relief in cases of undue financial hardship, through a payment plan or, in the case of parking penalties, a reduced penalty or dismissal of the penalty
- The ability to be heard and the ability to request an extension of time to be heard by a screening and/or a hearing officer
- A formal complaints process is in place
- Protocols are put in place to prevent political interference and conflicts of interest

The APS Conflict of Interest and Prevention of Political Interference Policies are included in Documents 4 and 5 of this report, and through recommendation 3, have been provided for approval as each contains provisions that apply to elected officials of the City of Ottawa. The Office of the City Clerk has reviewed these proposed policies to ensure they align with the statutory authority of the Integrity Commissioner, as well as the existing legislative and policy framework that applies to the conduct of Members of Council.

The Director of ServiceOttawa will work with City staff to prepare any other associated policies and procedures required for the purposes of administering and implementing an Administrative Penalty System in Ottawa.

### 3. Agreements

The following agreements will be entered into for each penalty type under APS. Each provides specific reporting, security, and process requirements to be met by the City.

- Ministry of Attorney General Agreement, which governs:
  - The Municipality's access to the Default Fines Control Center (DFCC) to transmit requests to the Registrar of Motor Vehicles to refuse to issue or validate vehicle permits for unpaid administrative penalties, and for remittance requirements.
- Ministry of Transportation Agreement which governs:
  - The Municipality's access to the Authorized Requester Information System (ARIS) which provides vehicle owner address information.

### 4. APS Administrative Fees

Ontario municipalities that have established APS programs may levy administrative fees, such as late payment fees, as authorized and set by the regulations governing the APS program to recover certain costs incurred for the administration of the program. Fees levied under APS are summarized in the APS By-laws, Documents 2 and 3.

### *Cost Estimate Considerations*

The APS program and start-up costs will be fully funded by ASE, RLC, and parking gross ticket revenues.

To establish an APS program, one-time start-up costs of \$1.57 million is required in 2024. The one-time cost will cover renovations, equipment, training, project staffing and initial staffing of operational positions to help resource project development.

Staff recommend a phased implementation starting with parking infractions in Q2 2025 and ASE and RLC infractions in Q4 2025.

### Hearing Officers

Under APS legislation, Hearing Officers are independent adjudicators that must be appointed and are not City employees. As a result, Hearing Officers will be independent contractors and paid a per-diem rate.

Through market analysis of comparable municipalities such as the Cities of Hamilton, Mississauga and Toronto, staff recommend the following rates:

- \$500 for a full day
- \$350 for a half day

The City will require one appointed Hearing Officer for every 1,820 hearings required. As summarized in Table 1 below, staff recommend that the City appoint 10 Hearing Officers per year starting in 2024, 2025 and 2026, up to a roster of 30 Hearing Officers. A roster of this volume would require Hearing Officers to work between 5-10 days per month, on average. Consistent with other Ontario municipalities, this model provides the City flexibility to scale up or down to meet demand.

### Program Staffing Requirements

No new FTEs will be required to implement and run the APS program, as currently assessed by staff.

Any positions required for the new system in Ottawa will be staffed through the conversion of FTEs that are currently designated to the POA program. The FTEs supporting the POA program will be transitioned as required to run APS program during the first and second phase of the program. It is anticipated that the APS program will commence with parking infractions in Q2 2025 and ASE and RLC infractions in Q4 2025.

### Transition

Currently, all tickets that are issued under POA are required to follow POA processes to resolution. For example, if an APS program were to be established January 1, 2025, all tickets issued up to and prior to December 31, 2024 under the POA will continue to

proceed through POA dispute, and resolution mechanisms. As such, if an APS program is implemented by the City, there will be a transition period of approximately six months where POA staff will support the phasing out of the issuance of Part I and Part II POA tickets for parking contraventions and camera contraventions and transfer the enforcement model to support the ramp up of APS tickets.

### System & Service Costs

Staff have assessed that a new ticket management system which aligns to the APS model will be required. The new system will offer significant savings once implemented.

Currently, the City primarily relies on two ticket management systems which support the management and resolution of parking, ASE and RLC tickets. Both systems are structured based on a per ticket fee plus licensing model. Additional City tools support the coordination of tickets, payments and required support through POA court-based processes. As part of the transition from POA to APS, the City will adopt a new, comprehensive ticket management system to manage all parking, ASE and RLC tickets.

A Request for Proposal (RFP) was conducted to obtain the cost of implementing such a system and supporting services. As an outcome of the RFP, project staff have identified a preferred proponent and, pending Council approval of this report's recommendations to implement APS, staff are prepared to enter into a contract that rationalizes parking and camera-based tickets into one system. The rationalization of existing systems will provide savings which are highlighted in Table 3 showing the processing cost comparison of running POA relative to APS, seen further below in this report.

### *Cost Implications*

A financial analysis was completed, based on 2023 ticket volumes, to compare the cost of managing tickets under POA relative to estimated costs under APS. The scope includes all compensation and non-compensation processing costs after a ticket is issued, through to ticket resolution. Internally, these compensation costs include ServiceOttawa, Legal Services and Revenue Services. Externally, these costs include vendor system and service costs, judicial costs, and costs incurred by using the MTO database for registered owner vehicle address information.

Table 3: 2023 Processing Cost Comparison (POA and APS)

<b>Ticket Type</b>	<b>POA</b>	<b>APS</b>	<b>% Change</b>
Parking	\$ 2,221,080	\$ 1,691,476	-24%
ASE	\$ 2,374,729	\$ 2,023,773	-15%
RLC	\$ 696,196	\$ 406,325	-42%
<b>TOTAL</b>	<b>\$ 8,305,432</b>	<b>\$ 5,351,269</b>	<b>-36%</b>

Processing costs are expected to be approximately 35 per cent lower under an APS program relative to POA. Efficiencies to be achieved with an APS program will allow the City to more effectively manage future growth with stable staffing levels.

Processing cost efficiencies come primarily from two areas:

**1) Transitioning Court Based Processes to Administrative Processes.**

Processes under POA require more resources across key process steps, such as in the event of a trial where a Justice of the Peace, court clerk, prosecutor and law enforcement officer are required. In addition, in cases where residents require an extension of time to pay or a payment plan, the City, through the POA model, currently uses JPs to administer this function where APS will allow this service to be provided by City staff.

**2) Technology Rationalization & Modernization.** Rationalizing two ticket management systems into one will streamline administration. Modernizing technology will allow the City to digitize processes and improve client service and administrative efficiencies. Currently, under the POA model there are delays between the time a client receives a ticket and when that ticket is available in the system to pay or dispute. This delay negatively impacts client service rates and creates additional administration for the City.

Once the APS program is fully operational, the City will be able to modernize and scale processes to manage tickets 35 per cent more efficiently relative to POA.

## **Conclusion**

This recommended option gives the City greater control over the administration of contravention processing activities and will allow the City to provide faster and more convenient service to residents. It will ensure adequate resourcing to meet the demand of growing ticket volumes, and support investments in programs for road safety. The proposed APS program will also create administrative efficiencies through use of modern technology and improve provincial capacity to focus on more serious matters through the POA court system.

## **Maintaining the Status Quo through POA**

At this time, the City of Ottawa continues to rely on the *Provincial Offences Act* for the processing and adjudication of all POA offences, including parking and camera-based contraventions.

## **Analysis and Outcome**

In Ottawa, ticket volumes related to parking, automated speed enforcement and red-light camera programs grew 45 per cent in 2023 and are expected to grow 108 per cent in 2024 and 38 per cent in 2025.

**Table 4: Annual Volume of Tickets Issued**

<b>Ticket Types</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024 (Est)</b>	<b>2025 (Est)</b>
<b>Parking</b>	362,755	247,637	262,089	340,623	406,219	414,343	422,630
<b>ASE</b>	NA	46,905	82,927	107,990	220,789	1,014,400	1,575,000
<b>RLC</b>	42,578	35,871	37,699	42,515	56,475	56,475	56,475
<b>Total</b>	405,333	330,413	382,715	491,128	712,694	1,484,818	2,054,105

The challenges presented under the current state are detailed below.

### *Court Capacity & Trial Demand*

A procedural challenge of POA adjudication is that it allocates equal adjudicative resources to both minor offences as well as serious public safety matters that should take precedence.

The City uses the limited judicial resources provided by the province to adjudicate all offences under POA. Generally, two per cent of parking tickets, two per cent of automated speed enforcement and four per cent of red-light camera tickets issued result in trials requested, adding an additional estimated trial request volume of 15,000 in 2024 and 12,000 in 2025. Parking, ASE, and RLC contraventions represent over 95 per cent of all POA proceedings. In addition to increases in trial demand, the courts operate with two thirds the JP resourcing since COVID-19.

With this system, minor infractions continue to consume a larger proportion of court time resulting in longer and extended timelines for resolution.

While the POA is an established system that leverages highly trained JPs to ensure fair outcomes are provided to defendants, it is a disproportionate response to have trials of parking and camera-based infractions heard by an appointed judicial officer in a courtroom. For example, within the current POA regime, a client may request a trial before a justice of the peace to adjudicate a disputed infraction as low as \$25. The cost of the trial alone, considering the use of a JP, prosecutor, court staff, court room facilities and in many cases the presence of an officer is many times greater than the returns generated from most infractions. Moreover, the coordination required to hold such a trial has resulted in timelines of over a year for clients to see resolution of disputes.

### *Legacy Technology & Processing Inefficiencies*

A variety of different software and technologies are required to support both the parking and camera-based ticketing programs in the current state. Many of these programs are unable to be upgraded, presenting limitations to increasing the scalability of processes to meet demand of ticket growth.

The result is higher processing costs and impacts on client service. Additional steps to move information through different legacy systems, as well as requirements under POA for physical documentation, create administrative inefficiencies and leads to higher labour requirements. For example, technology limitations create issues where clients have tickets in-hand but tickets are not yet available to pay or dispute in the system, creating a poor client experience, higher call volumes, and additional administration requirements for City staff.

### **Conclusion**

Staff's analysis indicates that remaining with the status quo is not in the best interest of the City. The continued use of POA for high volume, minor offences does not provide timely outcomes to defendants and allocates limited judicial resources away from more serious offences. Under the POA, the City does not have control over allocated judicial resources, nor the appropriate level of resources to adjudicate the growing volume of offences.

An Administrative Penalty System in replacement of the *Provincial Offences Act* for the management of ASE, RLC and parking offences addresses many of the existing challenges under the current state. First, by giving the City control over ensuring adequate adjudicative resourcing to meet demand and providing defendants the ability to receive dispute outcomes in less than half the time than is offered under current state POA. Second, it will allow the City to ensure the appropriate controls are put in place through various policies and procedures mandated by APS legislation to provide residents a fair hearing in front of a trained, neutral decision maker. Third, it will also help to support the long-term efficacy of traffic and parking enforcement programs, continued ongoing investments in road safety, as well as support overall public safety by improving the capacity of POA courts to bring more serious matters to court more quickly. Finally, an APS model presents an opportunity for the City to modernize technology, digitize processes and improve administrative efficiencies and customer service.

### **Next Steps**

Upon approval of this report's recommendations, ServiceOttawa will work to establish and deliver an Administrative Penalty System for the City for parking by-law related contraventions and contraventions detected using camera systems, with support from partners including Traffic Services, By-Law and Regulatory Services, Revenue Services and Legal Services. As outlined in the report, project partners and stakeholders will undertake the required work in order to have the APS program in operation for parking and ASE and RLC by the targeted timeframes of Q2 2025 and Q4 2025, respectively.

## **FINANCIAL IMPLICATIONS**

The financial implications are outlined in the report.

## **LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report. The establishment of an Administrative Penalty System for the enforcement, processing, and resolution of parking by-law contraventions, red-light camera and automated speed enforcement contraventions detected by camera systems, will be undertaken in accordance with the *Municipal Act, 2001*, Regulation 333/07, and the *Highway Traffic Act, 1990*, Regulation 355/22, in place of the current system administered under the *Provincial Offences Act (POA)*, as further described in this report.

## **DELEGATION OF AUTHORITY IMPLICATIONS**

The *Municipal Act, 2001* Regulation 333/07 requires that policies, procedures and guidelines be implemented for the administration of the system of administrative penalties. In accordance with the Delegation of Authority By-law 2023-67, as amended, Schedule “B”, section 1, the General Manager may approve corporate administrative policies and procedures within the department’s mandate. Subsection 3(2) further provides that authority may be sub-delegated in writing. A sub-delegation in writing will be implemented in accordance with the Delegation of Authority By-law for the Director of ServiceOttawa to prepare the necessary policies, practices, guidelines and procedures required for the purposes of implementing the Administrative Penalty System, as further described in this report.

Additionally, the report seeks delegated authority for the City Solicitor to finalize and place the required associated by-laws for the implementation of APS on the agenda of Council for enactment, as described in recommendation 2.

*Highway Traffic Act, 1990* Regulation 355/22 provides that Screening Officers are employees of the municipality. In addition, the *Municipal Act, 2001* Regulation 333/07 provides in section 8(1)3. that such Screening Officers are to be appointed by the municipality. Sections 23.2, 23.3 and 23.5 of the *Municipal Act* authorize the City to delegate its administrative powers – in this regard, as described in this report and the attached Appointment By-law, the Director of ServiceOttawa will be responsible for selecting and appointing City staff employed by ServiceOttawa as Screening Officers,

Any required agreements will be executed in accordance with Delegated Authority provided within the Delegation of Authority By-law 2023-067, as amended.

## ACCESSIBILITY IMPACTS

Any initiatives and outcomes resulting from the Administrative Penalty System (APS) will meet Provincial accessibility regulations, including the *Integrated Accessibility Standards Regulation* under the [Accessibility for Ontarians with Disabilities Act \(2005\)](#), as well as the City's [Accessibility Design Standards \(ADS\)](#).

There are numerous positive impacts to pedestrians, including persons with disabilities and older adults, through the introduction of the APS. This includes increased safety from improving the flow of traffic, as well as deterring behavior that is a risk to public safety such as decreased speeding and the reduction of running red lights.

Additionally, by transitioning to an APS and providing the City increased ability to manage the program's implementation, defendants will have the ability to dispute their tickets and receive outcomes in significantly less time, as well as ensuring defendants are afforded a fair hearing, ultimately improving the accessibility of the customer service experience. A new integrated public-facing penalty management portal is also expected to improve administrative processes regarding penalty management that will both ensure a better universal user experience, as well as meet all legislated requirements conformant with the World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA. Accessible formats and communication supports will be available to defendants upon request throughout the entire penalty process, meeting all obligations regarding the duty to accommodate under the *Ontario Human Rights Code*.

Staff will consult with the Accessibility Office as policies and the By-law are developed and updated under the new APS, including any other considerations that require an accessibility lens.

Finally, facilities being retrofitted for use under the APS program will include all accessibility features to accommodate persons with disabilities and older adults attending in-person hearing reviews, as per the ADS.

## INDIGENOUS GENDER AND EQUITY IMPLICATIONS

The APS Program will provide an improved service to the public across Ottawa as well as uphold road safety goals and initiatives. Following Council approval of the report recommendations, ServiceOttawa staff will ensure that culturally and linguistically appropriate education and messaging around any changes affecting residents as a result of the APS program are effectively communicated to all. ServiceOttawa will work closely with its partners to apply an equity lens to identify and monitor potential impacts this program may have on equity-denied groups and will also ensure appropriate feedback mechanisms are in place for all residents.

## RISK MANAGEMENT IMPLICATIONS

Risk implications have been outlined within the report discussion.

## **TECHNOLOGY IMPLICATIONS**

ITS and ServiceOttawa have been collaborating on the procurement of the new case management system and the technology implications of the report's recommendations. Some technology systems currently in place will continue to work in parallel with the new system as part of a transition period until all phases of the APS program are implemented. ITS will support these systems concurrently as required and will support decommissioning the legacy systems being replaced by the new case management system at the appropriate time.

ITS operational responsibilities and resource requirements for this program are to be determined, including the support model.

## **TERM OF COUNCIL PRIORITIES**

This report supports all of the 2023-2026 Term of Council Priorities:

- A city that has affordable housing and is more liveable for all
- A city that is more connected with reliable, safe and accessible mobility options
- A city that is green and resilient
- A city with a diversified and prosperous economy

## **SUPPORTING DOCUMENTATION**

Document 1 - Draft Administrative Penalty System Appointment By-Law

Document 2 - Draft Parking Administrative Penalty System By-Law

Document 3 - Draft Camera-based Administrative Penalty System By-Law

Document 4 – APS Conflict of Interest Policy

Document 5 – APS Prevention of Political Interference Policy

## **DISPOSITION**

Following Council approval, ServiceOttawa staff will work with partner departments to implement the APS Program as outlined in the report.

ServiceOttawa will work with Legal Services to have the City Solicitor finalize the required by-laws, and, in consultation with the City Clerk, will place these by-laws on the agenda for Council enactment.

ServiceOttawa will create and implement the necessary and required policies, guidelines and procedures associated with the APS Program, for implementation of the new system commencing in Q2 2025 for parking and Q4 2025 for ASE and RLC infractions.

\*Note: A Minor correction was made to this report further to the City Clerk's Delegated Authority, as set out in Schedule C, Section 8 of Delegation of Authority By-Law 2023-67. the report was corrected with respect to replacing the correct French title of the department.