
**EMERGENCY AND PROTECTIVE
SERVICES DEPARTMENT**

ASE AP GUIDELINES FOR REVIEWS

POLICY

#APS-2025-01

**ENFORCEMENT SERVICES
DIVISION**

Effective Date: January 2025

Revision Date:

GENERAL DESCRIPTION

The Automated Speed Enforcement Provincial Administrative Penalty (ASE AP) regime came into effect on July 1, 2022, consisting of provincial law, rules and requirements that municipalities can deliver at the municipal level. The Provincial Administrative Penalty Regime consists of section 21.1 of the Highway Traffic Act (HTA), Ontario Regulation 355/22, agreements between municipalities and the Ministry of Transportation, the Ministry of Attorney General, and the MTO Administrative Penalties Guidance Document. It is important to note that the ASE Provincial Administrative Penalty Regime is in contrast to the municipal AP regime used for parking and other municipal by-laws and requires strict adherence to the various components and requirements.

PURPOSE

The purpose of this guideline is to provide consistency, fairness, and transparency in the decision-making process when a review of the Penalty Order has been requested by the registered owner of the vehicle. These guidelines are intended to provide information and procedural clarity to the public to support an understanding ASE AP framework and review process.

These guidelines have been drafted to assist Screening and Hearing Officers in making informed decisions regarding Penalty Orders issued as a result of HTA infractions captured utilizing automated speed enforcement cameras/devices.

APPLICATION

This Policy applies to all Screening and Hearing Officers appointed to perform screening and hearing reviews for Automated Speed Enforcement violations.

PROCEDURE

1. Options for Registered Owner of Vehicle, re: Receipt of Penalty Order

Where the registered owner of a vehicle has been served with a Penalty Order, the registered owner may:

- a. Voluntarily pay the Penalty Order; or
- b. Commence the review process by requesting a review of the Penalty Order by a Screening Officer. This must be initiated by the registered owner of the vehicle within 30 calendar days after the date the Penalty Order is deemed served. Should the registered owner disagree with the decision of the Screening Officer, they may request a review of the screening decision by a Hearing Officer. This must be initiated within 30 days from the date of the decision of the Screening Officer.

2. CONDUCT OF A REVIEW

- a. Screening Officer Reviews shall be conducted using an electronic platform such as Microsoft Teams and/or over phone or via email. Screening Officer Reviews conducted via email are not considered to be scheduled reviews.
- b. Hearing Officer Reviews shall be conducted using an electronic platform such as Microsoft Teams and/or over the phone.
- c. No in-person Screenings or Hearings will be provided unless an accommodation request is made and granted by the Director of Enforcement and Regulatory Services.
- c. The registered owner (and/or agent representative) shall attend a scheduled review at the set date and time.
- d. Where Stage 1 of the process has commenced and a review of the subject Penalty Order has been requested by the registered owner (or their representative), Screening Officer(s) may:
 - Confirm the Penalty Order;
 - Vary (extend or reduce) the Penalty Order;
 - Set Aside (cancel) the Penalty Order.
- d. Where the decision of a Screening Officer is to be reviewed by a Hearing Officer, the Hearing Officer will conduct a review of the Screening Officer's decision.

Following review of the Screening Officer's Decision, the Hearing Officer may:

- Uphold the decision of the Screening Officer;
- Confirm the Penalty Order;

- Vary the Penalty Order; or
 - Set Aside the Penalty Order.
- d. Screening and/or Hearing Officer(s) shall not decide whether to confirm, vary or set aside a Penalty Order unless the registered owner (or their representative) has been provided an opportunity to make written submissions prior to a scheduled review to the Screening and/or Hearing Officer by 12:00 noon, one business day prior to the review.
- e. Written submissions to a Screening Officer relating to an email Screening Review shall be submitted upon completion and submission of the Request for Screening Review Form.
- f. In accordance with O. Regulation 355/22, witnesses are not permitted to be called during a review/hearing.
- g. The owner or their authorized representative is required to be in attendance at the scheduled review. If they do not attend, the following Administrative Fee(s) shall be added to the Penalty Order:
- i) No Show fee for a Screening Review - \$60.00.
 - ii) No Show fee for Hearing Review - \$60.00.
- h. The no show fee contained in subsection 2. g. i) does not apply to Screening Reviews that are conducted via email.
- i. In accordance with O. Regulation 355/22, the decision of the Hearing Officer is final.

3. DETERMINATION OF AN APPEAL

3.1 Stage 1 of Appeal Process – Screening Officer Review

In accordance with O. Regulation 355/22, the first stage in the review process allows for the Screening Officer to determine if it was reasonable for the Officer to impose the penalty order and to make a decision to:

- Confirm the Penalty Order;
- Vary the Penalty Order;
- Set Aside the Penalty Order.

3.2 Stage 2 of Appeal Process – Hearing Officer Review

In accordance with O. Regulation 355/22, the second (and final) stage in

the review process allows for the Hearing Officer to determine if the decision of the Screening Officer was reasonable and to make a decision to:

- Confirm the Penalty Order;
- Vary (reduce or extend) the Penalty Order;
- Set Aside (cancel) the Penalty Order.

3.3 Items for Consideration in a Review

In accordance with O. Regulation 355/22, ss.13(3) paragraphs 1 through 6, the Screening and/or Hearing Officer shall determine whether it was reasonable for the authorized person (Provincial Offences Officer) to impose the penalty order.

In making this determination, the Screening and/or Hearing Officer may consider the following information:

- Photographs or images taken by the ASE camera system;
- Statements, including certified statements, made by the authorized person who imposed the penalty order;
- Documents including certified documents, setting out the name and address of the person who is subject to the Penalty Order, a description of the permit and the plate number of the motor vehicle
- Statements made by the appellant either in writing or in the manner in which the appeal is conducted;
- Statements by or on behalf of the municipality in which the contravention that is the subject of the penalty order occurred, made either in writing or in the same manner in which the appeal is conducted;
- Any other information, materials or submissions that the Screening or Hearing Officer considers to be credible or trustworthy in the circumstance.

Please Note: Screening and Hearing Officers do not have jurisdiction to consider questions relating to the validity of a statute, regulation or By-law, or the constitutional applicability or operability of any statute, regulation or By-law.

4. DECISION(S) OF SCREENING OFFICER / HEARING OFFICER

4.1 Confirm the Penalty Order

- a. If the Screening and/or Hearing Officer is not satisfied that the Penalty Order should be varied or set aside; the penalty order is confirmed.

- b. Where a Penalty Order has been confirmed by a Screening and/or Hearing Officer following review/hearing, the registered owner shall be required to pay the amount determined by the Screening or Hearing Officer and the associated administrative fees within a prescribed date as determined by the Screening or Hearing Officer. This date must be included on the Notice of Decision.

4.2 Vary the Penalty Order and/or Schedule Periodic Payments

4.2.1 Extend Timeline to Pay or Provide a Payment Plan

The Screening and/or Hearing Officer may consider extending the timeline for payment only where they consider it fair and appropriate in the circumstances, and only if the appellant provides sufficient documentation to support the request.

- a. Documentation required for extending the payment timeline:
- i) A written explanation of the reasons for the extension request; and
 - ii) Supporting evidence such as financial statements or other relevant documents.
- b. Where the registered owner is claiming that payment of the Penalty Order will result in undue financial hardship, the following documentation are examples of what can be used to support the claim:
- Copy of Canada Revenue Agency Notice of Tax Assessment for the last full calendar year; and
 - Proof of receipt of any income supplement and the amount of such supplement including Old Age Security, Canada Pension and other pension information;
 - Guaranteed Income Supplement;
 - Disability Pension;
 - Ontario Student Assistance Program;
 - Any Child and or Spousal Support Orders.
- c. Where the Screening and/or Hearing Officer has extended the timeline to pay and/or has provided for payments on the Penalty Order, a proposed Payment Plan outlining when and how the registered owner intends to fulfill the Order is required.

Approval of a Payment Plan is conditional on the payment of a specified amount(s) being made on or before a specified date(s).

In considering a request to either extend the payment timeline and/or provide for a Payment Plan:

- i) Unforeseen Financial Hardship: When the contravener faces unexpected financial difficulties that prevent timely payment.
 - ii) Payment Plan Viability: Is the payment plan realistic and is the contravener committed to compliance.
- d. Where the Screening and/or Hearing Officer has approved an extension of time to pay a Penalty Order, and/or has imposed a Payment Plan, the due date(s) and/or plan are required to be entered on the Notice of Decision.
- e. If the registered owner fails to comply with the conditions imposed for a Payment Plan, the Payment Plan becomes null and void and the total amount or, if partial payment(s) have been made, the balance owing, become due and payable to the County forthwith.

4.2.2 Reduction of the Administrative Penalty

- a. The amount of the administrative penalty is established in law by Ontario Regulation 355/22. Penalty Orders are issued in incidents where the vehicle is travelling above the posted speed limit in a school or community safety zone. Areas where automated speed enforcement is being used are required by law to be signed. Registered owners receiving a Penalty Order who, due to economic circumstances, cannot pay the full amount of the penalty within the prescribed time may request more time to pay or a Payment Plan through the review process. A penalty order that does not comply with the regulation will be cancelled.

4.3 Cancel Penalty Order

4.3.1 Reasons to cancel a Penalty Order

The following defects support the cancellation of a penalty order:

- The Penalty Order is incomplete – it is missing plate holder information, including name, alpha numeric plate characters and jurisdiction; the number of the penalty order; date of contravention; location of contravention; signature of the issuing provincial offences officer; date of issue; date of deemed service; amount of the penalty or the unique Penalty Order number;
- The Penalty Order was not issued by an authorized person;
- There is no information set out on the Penalty Order regarding how and when to commence an appeal;
- The image and license plate enlargement are not clear (the enlargement of the license plate attached to the motor vehicle is required to be clearly read). To be clear, the image or images are those provided and certified by the provincial offences officer and are in no way altered;
- The information displayed in the image or images does not match the information set out in the corresponding certified statement;
- The recipient of the Penalty Order provides a copy of an occurrence or incident report from a police service reporting the vehicle and/or vehicle plates as stolen, and that report relates to a period of time relevant to the issuance of the Penalty Order, the report may result in the cancellation of the Penalty Order.

There are specific requirements in Ontario Regulation 398/19 and any non-compliance with those requirements will result in the cancellation of the Penalty Order. The requirements will either be addressed in the Penalty Order or in the certified statement of the issuing Provincial Offences Officer during an appeal. The Penalty Order should be cancelled if:

- The location of the contravention is not stated to be a community safety or school zone;
- The make and model of the ASE system is not indicated in the certified statement;
- The speed of the motor vehicle at the time of the contravention is not indicated in the Penalty Order;
- The posted speed limit is not indicated in the Penalty Order;
- There is no marker in the image provided with the certified statement or the marker does not “touch” the motor vehicle;

- There is no date indicated, in the certified statement, for the certificate of accuracy or the date indicated is outside of the time allowed (within 12 months of the date of the contravention) or there is evidence that the certificate of accuracy for that device on that date is outdated;
- There is no indication in the certified statement that the signage, required by section 8 of the Regulation, was posted.
- The registered owner submits credible evidence that the speed of the vehicle at the time of the contravention was otherwise, than that which was recorded by the ASE system, then the Penalty Order may be varied or canceled.

5. DECISIONS

Screening and/or Hearing Officers shall provide decisions and shall:

- a. Document reasons for all decisions made.
- b. Date all decisions;
- c. Include information regarding further reviews (Screening Officer Decisions only);
- d. Communicate all decisions in writing, providing reasons for the outcome;
- e. Make all decisions in accordance with applicable laws and regulations.

6. POSTPONEMENTS

A Person may request a postponement of a scheduled Screening or Hearing review upon application to the Director, who may approve the request based on extenuating circumstances. At their discretion, the Director may reschedule the review.

7. REFERENCES AND RELATED POLICIES

Municipal Act, 2001

Highway Traffic Act and applicable regulations

Applicable County policies and procedures

CONSEQUENCES OF NON-COMPLIANCE

In accordance with the Municipal Act.

REVIEW CYCLE

In conjunction with the review of the Administrative Penalty System By-law or as required.