APPENDIX M

1. *The Municipal By-law Enforcement Act* (*MBEA)* Process

The *MBEA* process provides someone who receives a penalty notice under the MBEA with three options:

- pay the early payment discount,
- pay the full fine after the early payment deadline has passed, or
- challenge the penalty notice.

Payments made under the *MBEA* process are collected by the Winnipeg Public Service.

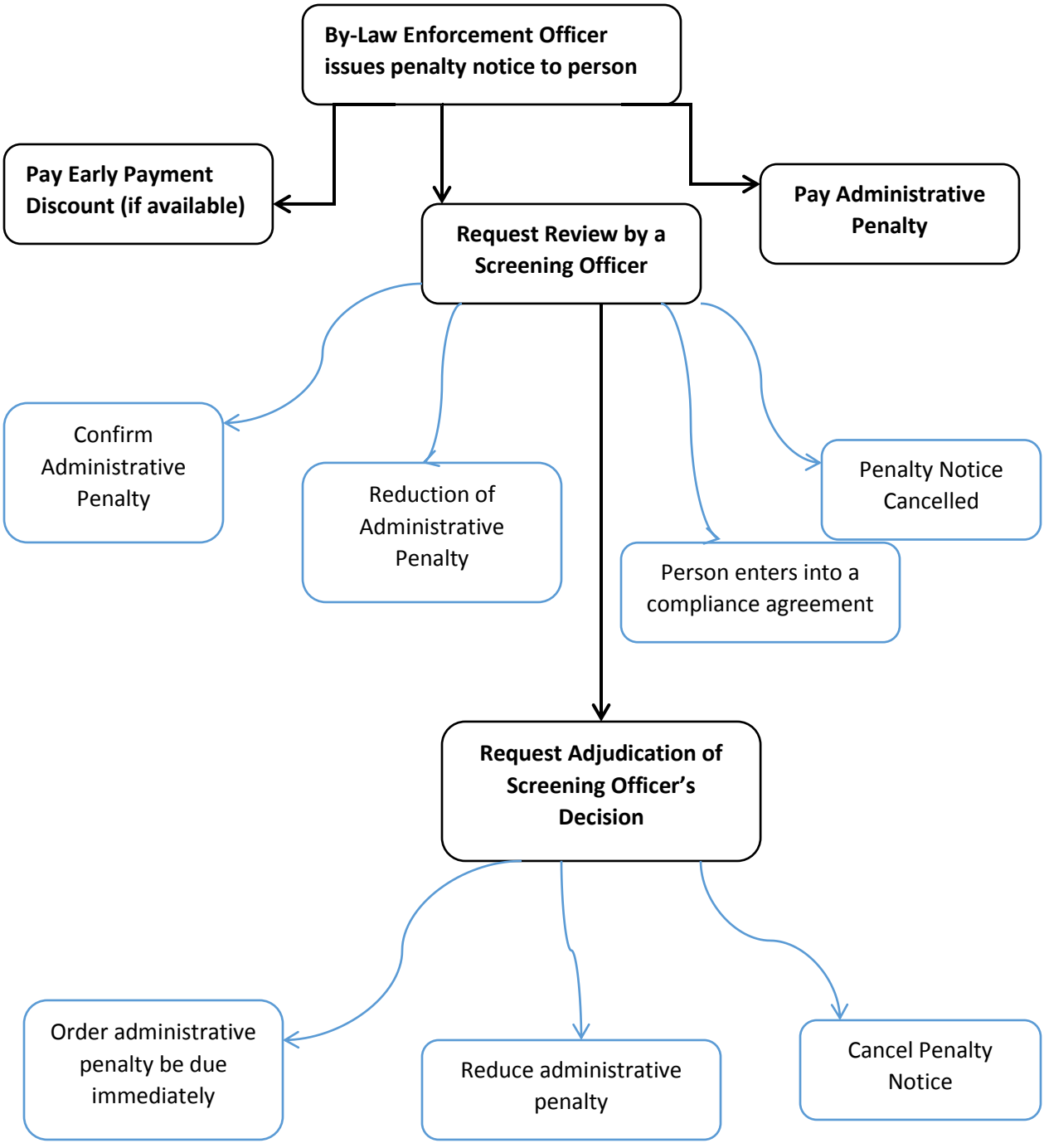
Citizens who wish to challenge a penalty notice can make a request to have the penalty notice reviewed by a City-appointed screening officer. The screening officer can cancel the penalty notice or reduce the amount of the penalty using criteria set out in the By-law. If the citizen disagrees with the screening officer's decision, he/she has the option to challenge the penalty notice further by having the matter considered by an adjudicator, an individual who is appointed by the Province.

The *MBEA* process is mandatory for parking by-law offences and has been used for all parking offences in the City since August 2016. This experience has been generally positive, with most challenges settled by screening officers and very few proceeding to an adjudication.

The City is able to choose to have the *MBEA* process apply to any non-parking by-law offences with set fines of less than $1000. The Public Service is proposing that almost 600 other by-law offences be dealt with through the *MBEA* process.

A flowchart outlining the *MBEA* process is attached to this Appendix as "Chart 1".

CHART #1: *MBEA* PROCESS CHART***



LEGEND

Determination made by decisionmaker

Decision made by the accused/defendant

****Note: This chart assumes that the accused will appear as required by law and will make immediate payment of fines imposed. Additional charts would be required to depict options in situations where these assumptions were not borne out*

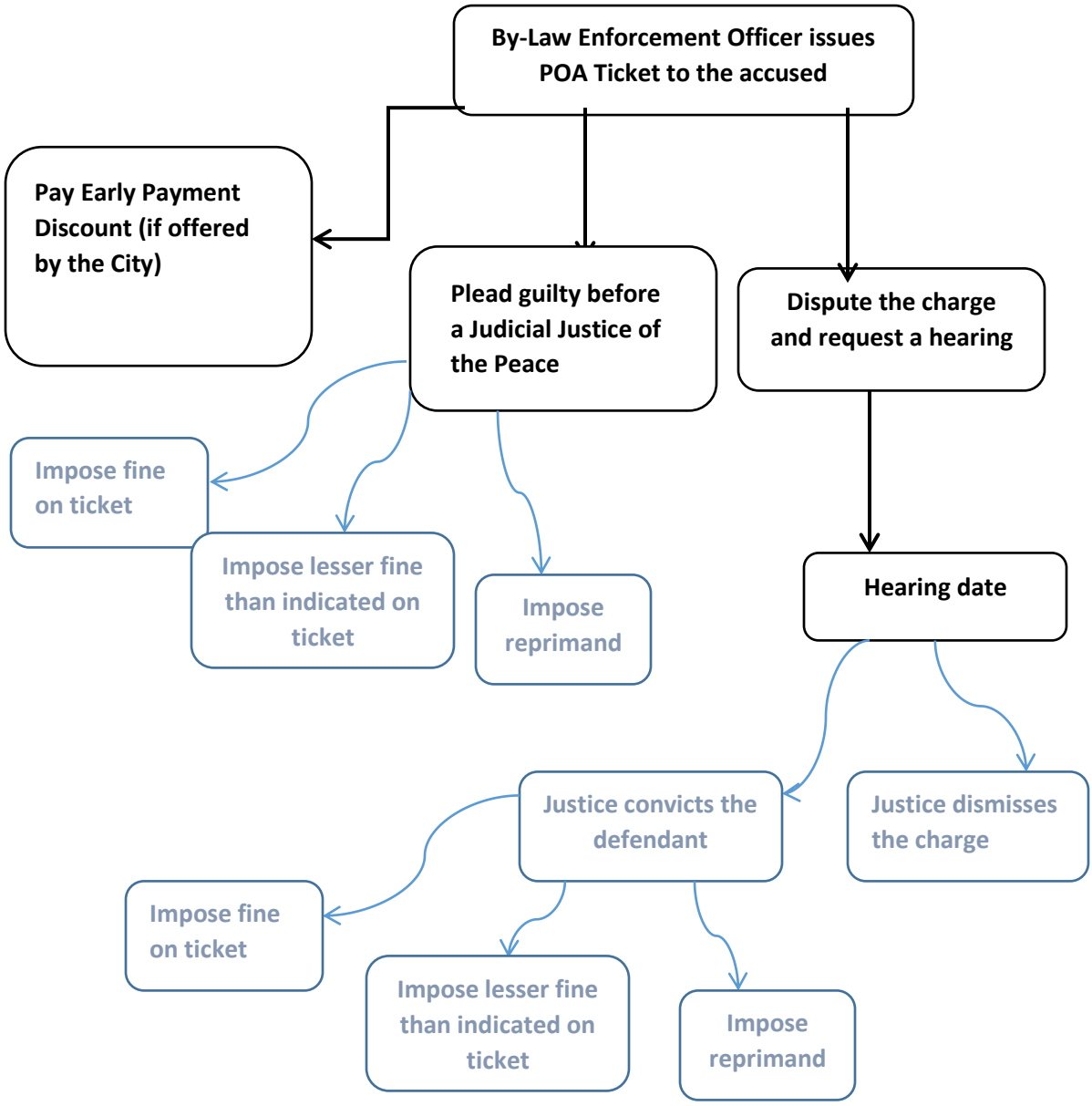
2. Tickets under *The Provincial Offences Act* (*POA)*

Although it is more formal than the *MBEA* process, the *POA* ticket process is similar in some ways. As with the *MBEA*, a *POA* ticket is only available to be used when a set fine has been established for an offence (although a *POA* ticket fine can be greater than $1000). As with the *MBEA*, the City may have provided an early payment option. In this case, a person who gets a *POA* ticket has the option of paying an early payment discount to the City. Once the deadline for an early payment discount has passed, the full fine is payable.

Under the *POA*, if a person wants to plead guilty but challenges the amount of the fine, he/she can present his/her case to a Judicial Justice of the Peace (JJP) at the Provincial Court. Individuals who wish to plead "not guilty" will be scheduled to have a hearing at the Provincial Court. A hearing requires that the City By-Law prosecutor prove the City's case against the person beyond a reasonable doubt.

A flowchart outlining the Ticket process under the *POA* is attached as "Chart 2".

CHART #2: TICKETS UNDER THE *POA****



LEGEND

Determination made by decisionmaker

Decision made by the accused/defendant

****Note: This chart assumes that the accused will appear as required by law and will make immediate payment of fines imposed. Additional charts would be required to depict options in situations where these assumptions were not borne out*

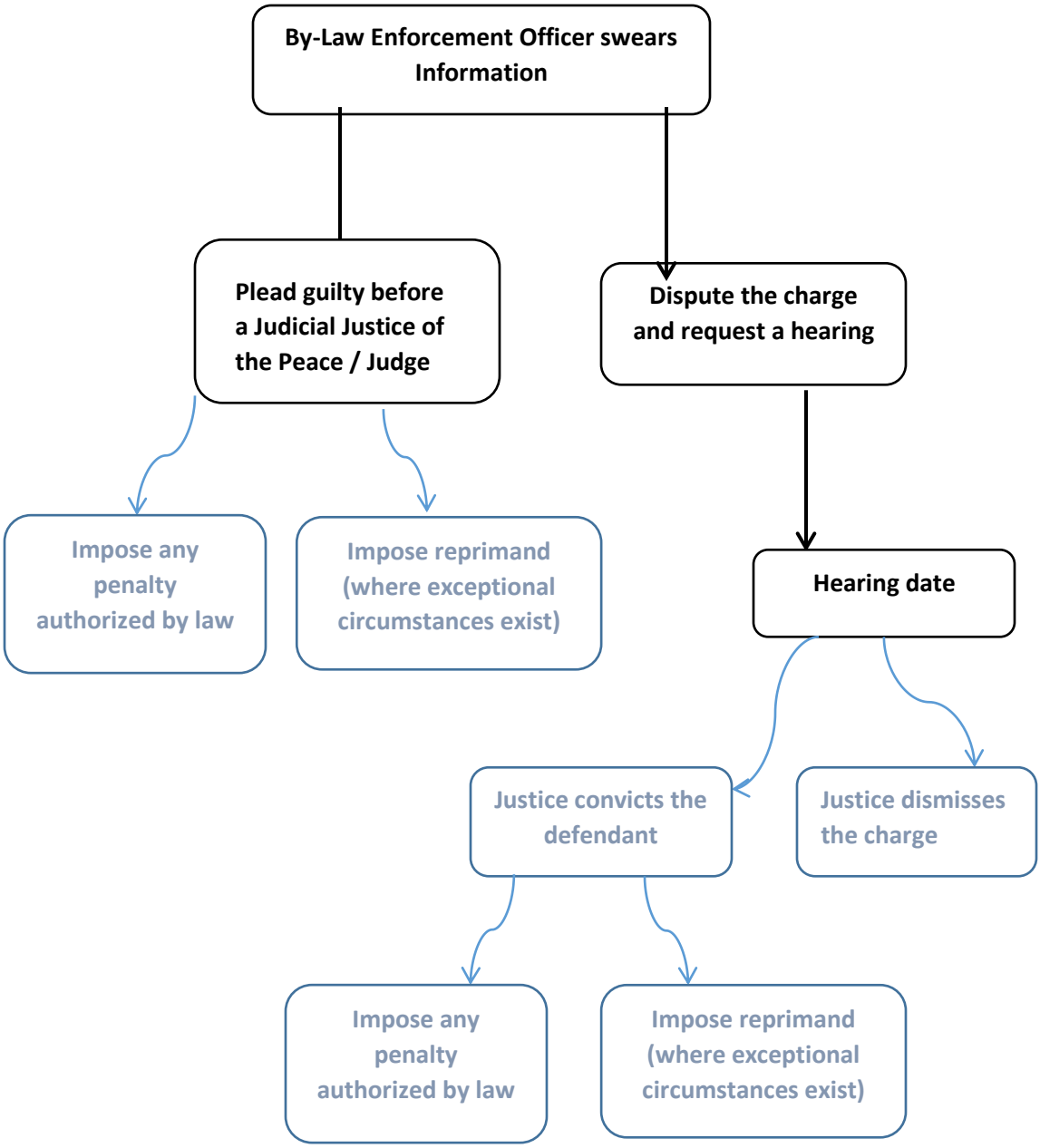
3. Information under *The Provincial Offences Act (POA)*

A *POA* Information is the most formal of the three processes. It involves an enforcement officer swearing an Information before a Justice so that a prosecution can be initiated. Once an Information is sworn, the alleged offender is required to attend Court. In fact, an offender's failure to attend could result in a warrant being issued for his/her arrest. Although this process can be used when a set fine is established, it is the only process that can be used when no set fine is established (e.g. when a minimum or maximum fine or a range of fines is set out or when no specific fine at all has been established for an offence).

Under this system, person charged with an offence must attend court. At that point, he or she has an option to plead guilty or to schedule a hearing. A hearing requires that the By-Law prosecutor prove the case against the person beyond a reasonable doubt.

A flowchart outlining the Information process under the *POA* is attached as "Chart 3".

CHART #3 INFORMATION UNDER THE *POA**



LEGEND

Determination made by decisionmaker

Decision made by the accused/defendant

****Note: This chart assumes that the accused will appear as required by law and will make immediate payment of fines imposed. Additional charts would be required to depict options in situations where these assumptions were not borne out*