

Attachment 1 – Confidential Information – made public by City Council on June 8, 2010

Parking Ticket Cancellation Guidelines

Date:	May 11, 2010
To:	Government Management Committee
From:	Treasurer and City Solicitor

CONFIDENTIAL INFORMATION

The current cancellation guidelines used by the First Appearance Facilities staff are attached as Appendix A to this Confidential Attachment 1. As identified in the public portion of this report, guidelines were originally developed in 1993 for use by the Toronto Police Service Parking Enforcement Unit. Since that time, and with the transfer of responsibility for First Appearance Facilities first to the Municipality of Metropolitan Toronto in 1994, and then to the City of Toronto's Revenue Services Division in 1998, these guidelines have been revised from time to time to incorporate new or amended legislation and/or City by-laws and new fines and fine amounts.

The guidelines have always been intended for use by staff that have a working knowledge of the *Provincial Offences Act* and parking ticket operations. The language, instructions and the terminology used in the guidelines reflect that the guidelines were intended for staff use only. As such, it would be difficult for the general public to understand the form and manner in which the guidelines are written, and more importantly, it would be difficult for the public to try to determine when a ticket could be cancelled, and the required evidence and criteria for the cancellation.

The cancellation guidelines have never previously been made public since the establishment of Toronto's First Appearance Facilities ("FAFs") in 1993, nor at any time since responsibility for the FAFs was transferred to Metro in 1994 and later to the City in 1998. The reason behind this decision was that the cancellation guidelines related to ongoing court proceedings (i.e., parking ticket prosecutions and appeal proceedings). Given that the application of the guidelines contemplates the exercise of discretion, there is the possibility that the guidelines could be challenged or exploited in court proceedings to avoid convictions and thus undermine the City's ongoing prosecution efforts for parking offences.

Additionally, given that the release of the current or proposed guidelines could potentially result in an increase in the number of tickets which are presented for cancellation, with associated revenue implications, the current and proposed guidelines (Appendices A and B to this Confidential Attachment) are presented here in confidence to protect the City's financial interests.

In acknowledging that it would be in the public interest to have the future criteria for parking ticket cancellations published, staff have sought advice from Legal Services. After reviewing the new guidelines, Legal has advised that they may be made public without compromising the City's prosecutions, however, given that the current guidelines were drafted for use by staff that have a working knowledge of parking ticket legislation, any published guidelines should be rewritten in clear language to make the requirements for a ticket cancellation easily understood by the public.

Staff have therefore developed a user-friendly version of these guidelines which may be considered for public release, which is attached as Appendix B to this Confidential Attachment. The cancellation guidelines in Appendix B have been prepared as a complete list of situations where the cancellation of a ticket by the FAF staff is considered appropriate. The section of the guidelines dealing with Extenuating Circumstances reflects, however, that it is impossible to anticipate in advance every type of such circumstances that would warrant the cancellation of a ticket. That section will permit staff to respond appropriately to extenuating circumstances as they arise.

Additionally, the user-friendly version of the guidelines to be published excludes guidelines related to courier and delivery vehicles until such time that the Transportation Services Division has completed a parking and transportation strategy for such vehicles, and Council has authorized that guidelines for courier and delivery vehicles be made public, as identified in the public portion of this report. The public guidelines have also been simplified by removing those portions of the existing guidelines that contain detailed cancellation codes or technical references to internal systems, or notes that serve as instructions to staff.

Given that Council has requested that the Treasurer report to the Government Management Committee on the guidelines for parking tag cancellations prior to making the guidelines public, the public portion of this report recommends that Appendix B to this Confidential Attachment remain confidential until such time as Council has adopted this report and authorized the public release of this information.