



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Parking Ticket Cancellation Guidelines

Date:	May 11, 2010
To:	Government Management Committee
From:	Treasurer and City Solicitor
Wards:	All
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City and involves the security of property belonging to the City.
Reference Number:	P:\2010\Internal Services\rev\gm10012rev (AFS 11745)

SUMMARY

This report provides information on the guidelines used by staff in assessing parking ticket disputes and determining whether a cancellation of a parking ticket is warranted.

RECOMMENDATIONS

The Treasurer and City Solicitor recommend that:

1. City Council authorize the public release of the user/public-friendly version of the parking ticket cancellation guidelines contained in Appendix B to Confidential Attachment 1 and publication on the City’s website after adoption of this report.
2. The remainder of Confidential Attachment 1 remain confidential in its entirety, as the content relates to litigation or potential litigation affecting the City, and involves the security of property of the City.
3. Authority be delegated to the Treasurer, or his/her designate, in consultation with the City Solicitor and General Manager of Transportation Services and Toronto Police Service, to amend or update the parking ticket cancellation guidelines from time to time as required, including to reflect and incorporate references to new by-laws and/or legislative requirements, new offences, amendments to existing by-laws or legislation, or new fines or fine amounts.

4. The Treasurer, in consultation with the General Manager of Transportation Services, be directed to prepare a further report to the Government Management Committee as soon as possible in 2011 after completion of the Transportation Services review, to recommend the inclusion of new guidelines for couriers and delivery vehicles, and that staff continue to apply the existing guidelines until such time as the new guidelines are approved.

Financial Impact

There are no financial implications associated with this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on February 22, and 23, 2010, City Council, in considering a report dated January 27, 2010 from the Auditor General titled “Controls Over Parking Tags Need Strengthening” (re: Audit Committee Report Meeting No. 1, Item AU15.2), adopted a recommendation requesting that “the Treasurer report to the Government Management Committee for its meeting on May 20, 2010, on the protocols/guidelines for parking tag cancellations prior to making the guidelines public.”

The report and Council decision can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2010/au/reports/2010-02-12-au15-cr.htm#AU15.2>

ISSUE BACKGROUND

Parking tickets have always been a key component in enforcing the City of Toronto's parking by-laws, regulating the movement of traffic on City roadways, and helping to ensure smooth traffic flows and safe streets. Set fines have been established for each type of parking infraction, with the fine amount set at a level to serve as a deterrent to illegal parking.

In 2009, the Auditor General reviewed the City's parking ticket collection processes and acknowledged in his report that:

- the City has significant internal controls related to the process for cancelling parking tickets, and that in many instances parking tickets are cancelled due to circumstances beyond the City's control (for example, when the ticket is issued to a vehicle registered outside Ontario or the vehicle owner drives away before the ticket is received or affixed to the vehicle);
- while it may be possible to reduce the number of cancelled parking tickets, this can only be achieved through amendments to provincial legislation; and

- In 2008, of 425,000 cancellations, the City's "discretionary cancellations" at First Appearance Facilities totalled 12,000 parking tickets valued at over \$500,000. These cancellations are categorized as "discretionary" because City staff are allowed to exercise a degree of judgement in cancelling parking tickets. Examples in which tickets are cancelled relate to by-law exemptions, missing signs, educating first time offenders and medical emergencies.

The Toronto Police Service's (TPS) Parking Enforcement Unit is responsible for parking enforcement and issues the majority of the City's parking tickets each year. A small percentage of parking tickets are issued by trained Municipal Law Enforcement Officers (MLEO's) employed by private parking enforcement agencies (PPEA's). MLEO's are trained and certified by the TPS to issue parking tickets on private or municipal property. PPEA's are required to obtain a license from the City's Municipal Licensing and Standards Division in order to operate in the City.

Until 1994, the TPS's Parking Enforcement Unit was also responsible for resolving parking ticket disputes and processing requests for trial. In 1994, the responsibility for hearing disputes and processing trial requests was transferred to the former Metropolitan Toronto government.

History of the Parking Ticket Dispute Process and Associated Legislation

Prior to 1994, provincial legislation governing parking offences and parking ticket matters required citizens who received a parking ticket to either pay the ticket or to request a trial by completing the back of the ticket and mailing it in for court scheduling.

In 1994, the *Provincial Offences Act* (POA) was amended to establish First Appearance Facilities (FAFs) in high volume areas such as Metro Toronto, and in all areas where photo radar was to be piloted, in an effort to minimize the volume of minor offences before the courts. The intent of the FAFs was to review the circumstances of the infraction and to withdraw or reduce charges where appropriate. A trial would only be requested and scheduled where an issue was unable to be resolved at the FAF.

The City of Toronto's first FAFs established in 1993 were operated and staffed by the TPS's Parking Enforcement Unit. First Appearance Facilities continued to be operated by TPS until 1994, at which time they were transferred to the then Municipality of Metropolitan Toronto.

With the establishment of the FAFs, and to ensure that parking ticket disputes were handled in a consistent and fair manner, the TPS, like many other Police Services / municipalities that operated FAFs, developed guidelines to assist staff in identifying circumstances where a cancellation was warranted. The criteria and conditions set out in the guidelines provided TPS staff with a basis to apply discretionary cancellations consistently.

In light of the many different circumstances and myriad of by-laws surrounding parking offences, it is important that each ticket under dispute be reviewed and assessed individually. For example, two drivers who have been ticketed for the same reason, same offence code and same by-law may present different reasons, circumstances and evidence for parking illegally. These could include, for example, medical reasons, personal reasons or other factors such as weather conditions. These factors must be considered individually in determining discretionary cancellations in order to provide a fair assessment of the parking ticket incident. As such, the criteria for cancellations used by the TPS FAF staff were established as "guidelines" to allow a degree of discretion in decision making, with the intent that tickets which were unlikely to receive a conviction through the courts, based on the evidence provided and the circumstances surrounding the dispute, could be cancelled, and thus eliminate such tickets from the trial/court system.

In 1994, responsibility for processing parking ticket disputes and the operation of the FAFs was transferred from the TPS to the then Municipality of Metropolitan Toronto, Finance Department. The transfer established a segregation of duties and responsibilities so that the Police continued to be responsible for enforcing the City's transportation and parking by-laws (including ticket issuance), while the municipality took on responsibility for processing and collecting fines for parking tickets, and the courts maintained responsibility for hearing parking ticket trials.

Following amalgamation in 1998, the FAFs remained in Finance under the Revenue Services Division. The guidelines currently used by Revenue Services' FAF staff in assessing parking ticket disputes are essentially the same guidelines inherited from the TPS in 1994, updated as required to reflect and incorporate new by-law requirements and amendments, legislative changes, changes to fine structures, and the introduction of new parking offences.

COMMENTS

Although the City of Toronto's collection rate is one of the highest in Canada, of the approximately 2.8 million tickets issued in 2009, 428,651 or 15.34% of these tickets were cancelled. Parking tickets are cancelled for a variety of reasons. While many of the cancellations were required due to errors on the tickets or for legislative reasons such as offenders driving away prior to having the ticket served, approximately 6% were cancelled for discretionary reasons, using the guidelines inherited from the TPS.

In administering the guidelines for cancellations, FAF staff must review each disputed ticket based on the evidence presented by the person who received the ticket, the nature of the infraction, and the circumstances of the ticket issuance. Additional steps routinely taken by FAF staff to ascertain whether a ticket warrants a cancellation include:

- examining the license plate history to identify past infractions, whether there are prior cancellations and the reasons for cancellations;
- requesting an investigation by Transportation Services, the Toronto Parking Authority or the Toronto Police Service Parking Enforcement Unit to verify that

signage may have been missing or covered, that meters or pay and display machines were not operational at the time of the infraction and/or that work was being carried out on the roadway, preventing legal parking;

- reviewing various by-law exemptions and permit parking zones to confirm that the permit was used in the correct zone;
- confirming temporary police considerations which would permit illegal parking due to police investigations, construction zones (ie: heavy crane lifts) or other street closures directed by police;
- accessing the Ministry of Transportation license plate/vehicle registration data to verify whether disabled parking permits are valid.

Table 1, below, summarizes the various reasons why tickets were cancelled in 2009.

Table 1 – Parking Tickets - Breakdown of Tickets Cancelled in 2009

Parking Tickets Cancelled in 2009		Reason for Cancellation
#	%	
163,370	5.85%	Cancelled by Parking Ticket staff for various reasons including utility or road work, by-law exemptions, missing signs, errors on ticket, etc.
107,536	3.85%	Drove Away – offender drives away before officer can serve the ticket.
94,847	3.39%	Out-of-Province – Tickets issued to out-of-province vehicles where license plate and owner information is unavailable.
45,465	1.63%	Plate errors – plate does not exist, plate is unattached*.
9,041	0.32%	Incomplete – missing information.
5,701	0.20%	Cancelled/Conviction by Justice of the Peace at Trial**.
1,685	0.06%	Spoiled – error on parking ticket.
1,006	0.04%	Illegible – processing staff are unable to read the ticket.
428,651	15.34%	

* Plate errors include cases where license plate information on the ticket does not match MTO license plate data, e.g. where plate information has been entered manually or by the hand-held device and MTO records indicate that the plate has been returned to the MTO, the plate has not been issued, the plate was not found, the expiry date sticker and MTO expiry dates don't match, the plate has been reported stolen, or the plate is unattached (not assigned to any specific vehicle).

** Cancelled/Conviction by the Judiciary - may result in a conviction being registered; however, a suspended sentence may be imposed whereby the offender is not required to pay the fine and the ticket is treated as cancelled since no revenue is forthcoming.

Staff report annually on the level of parking ticket activity each year, including the number of cancelled tickets and the reasons for cancellations, in a briefing note prepared for members of Council and posted on the City's website. The link to the 2009 Parking Ticket Activity briefing note is:

<http://www.toronto.ca/pay-toronto-tickets/pdf/2009activitybn.pdf>

To help staff make informed, consistent decisions about parking ticket cancellations, the City of Toronto, like many other municipalities who operate First Appearance Facilities under the *Provincial Offence Act*, continue to use established guidelines to assist staff in determining whether a cancellation is warranted. Where the circumstances surrounding an illegally parked and ticketed vehicle suggest that there is minimal or no probability of conviction if the matter proceeds to trial, the ticket is cancelled. Supported by the Judiciary, this approach mitigates court costs and frees up court resources to hear more serious offences.

Appendix A to Confidential Attachment 1 to this report contains the parking ticket cancellation guidelines that are currently used by First Appearance Facility staff. These are provided in confidence as the content relates to litigation or potential litigation affecting the City, and involves the security of property of the City.

Publication of Ticket Cancellation Guidelines

The reasons for publishing ticket cancellation guidelines as recommended in this report is to streamline the process for disputing a parking ticket, and to reduce the number of parking tickets where a trial has been requested. If the public are aware of circumstances where a ticket may be cancelled without having to request a trial, and they have valid grounds or evidence to support the cancellation, they may simply request that the ticket be cancelled at one of the City's First Appearance Facilities. Examples of this may be cases where a vehicle owner has purchased (and can present) a valid pay-and-display ticket that covers the period in which a parking ticket was issued, or other cases where a driver is in possession of a valid handicapped permit that provides an exemption for the parking offence for which the ticket was issued.

Similarly, where individuals realize that the parking ticket does not meet the requirements for cancellation, or they do not have the required evidence as set out in the guidelines, they may choose to pay the ticket, rather than request a trial, given that the court may likely uphold the ticket issuance. In any event, an individual wishing to have a ticket cancelled must attend in person at one of the City's First Appearance Facilities. Putting the parking ticket cancellation guidelines in the public domain will help to foster better understanding by the public of the City's processes and criteria for cancellation and by doing so will help to reinforce that parking ticket cancellations are dealt with in an equitable and fair manner according to an established set of rules.

Finally, given that public guidelines posted on the City's website may need to be modified to clarify or better explain the circumstances surrounding cancellations, based on feedback received from the public, and/or to reflect any necessary changes to the

guidelines arising from future legislative changes or new or amended City by-laws that specify new fines or fine amounts, this report recommends that authority be delegated to the Treasurer, or to his/her designate, to update the parking ticket cancellation guidelines from time to time and as required, in consultation with the City Solicitor and General Manager of Transportation Services and the Toronto Police Service.

Future Report on Courier and Delivery Vehicles

It should be noted that the new user/public-friendly parking ticket cancellation guidelines proposed to be published do not currently include any references or criteria related to cancellations for courier and delivery vehicles. The Transportation Services Division is currently reviewing the parking enforcement process for courier and delivery vehicles, with a view to developing a parking and transportation strategy for such vehicles, at which time complementary guidelines will be reported to Committee and Council for consideration.

The Transportation Services review is intended to develop a parking and transportation strategy for delivery and courier vehicles that balances overall traffic management and commerce in the City of Toronto and the legislative provision (under the *Highway Traffic Act*) which provides an exemption from the City's parking by-laws for vehicles when standing temporarily for the purpose of, or while actually engaged in, loading or unloading merchandise or passengers.

Courier and delivery vehicles that operate in the City deliver tens of millions of dollars worth of goods each day. For a variety of reasons including but not limited to the fact that many of the City's core areas do not have adequate loading and unloading zones for couriers and delivery vehicles, many vehicles park illegally while on delivery. This results in a high number of parking tickets being issued to courier and delivery vehicles.

In taking a global view on this issue, the Transportation Division's review will seek to balance the importance of commerce against the need of public transit and other users of the roadways.

Until such time as the courier and delivery vehicle strategy is developed, the City will continue to use the current guidelines in considering delivery vehicle cancellations. It is anticipated that the Transportation Division will not complete their review until the second quarter of 2011. Staff will then report back on the results including recommendations respecting the inclusion of these new guidelines into the public version of the cancellation guidelines.

CONTACT

Casey Brendon
Acting Director, Revenue Services
416-392-8065
cbrendo@toronto.ca

George Bartlett
Director, Prosecutions, Legal Services
416-392-6756
gbartlet@toronto.ca

SIGNATURE

Giuliana Carbone
Treasurer

Anna Kinastowski
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Parking Ticket Cancellation Guidelines