

Grace Periods for Parking Offences

Date:	February 7, 2014
To:	Government Management Committee
From:	General Manager, Transportation Services and Treasurer
Wards:	All
Reference Number:	P:\2014\Internal Services\rev\gm14006rev (AFS19073)

SUMMARY

In response to a request made by the Government Management Committee at its meeting of November 21, 2013 on possible amendments to the City's parking by-laws to effect the changes requested by City Council with respect to grace periods, including any operational, public safety or financial impacts associated with any recommended changes to the City's parking by-laws, this report:

- a) recommends appropriate amendments to the City's parking by-laws which will achieve Council's objective of providing a 10-minute grace period for on-street pay-and-display parking; and
- b) outlines public safety and traffic concerns with amending the City's parking by-laws to provide for a grace period between 9:00 pm of one day to 12:01 pm of the next day for residential on-street permit parking areas when parking alternates from one side of the street to the other.

RECOMMENDATIONS

The General Manager, Transportation Services and the Treasurer, recommend that:

1. City Council amend City of Toronto Municipal Code Chapter 910 to incorporate an exemption at parking machines from the requirement to pay or deposit a fee and to use or activate the parking machine in circumstances where a valid pay-and-display receipt had been purchased, and where 10 minutes or less time has elapsed since the expiry of the purchased time indicated on the pay-and-display

receipt, provided that this shall not permit a driver to stop or park at any location where or at any time when stopping or parking is otherwise prohibited.

2. City Council authorize the City Solicitor, in consultation with the General Manager, Transportation Services, to prepare and submit any necessary bill(s) to Council to give effect to the recommendation(s) above.

Financial Impact

In 2013, the City of Toronto issued 2.63 million parking tickets, with associated revenues of approximately \$78.44 million. Of the total tickets issued, approximately 572,000, or 21.7 per cent, were tickets issued for expired pay-and-display offences (the single largest category of parking offence types).

Should the recommendations in this report be adopted, it is estimated that implementing a city-wide 10-minute grace period/exemption on all on-street pay-and-display parking machine related offences could reduce the number of tickets issued for these offences by as much as 10% or approximately 60,000 tickets. This reduction translates to a reduction in parking ticket revenue of approximately \$1.8 million, or a 2.3 per cent reduction in total parking ticket revenues.

Additionally, the implementation of a 10-minute grace period/exemption may have further financial impacts on the Toronto Parking Authority's parking revenues, since drivers may opt to purchase less time given the extended 10-minute grace period/exemption provided at the end of their parking receipt expiry time. The Toronto Parking Authority has not been able to estimate the revenue impact of the 10-minute grace period/exemption, as this could vary depending on driver behaviour.

For reasons related to public safety and traffic flow management, this report does not recommend the implementation of a by-law exemption for alternate side parking (to formalize the Toronto Police Services' currently observed practice of not ticketing between 9:00 p.m. the night before the changeover to 9:00 a.m. the next day and extending this period to 12:01 p.m. of the day following the changeover) to incorporate a grace period.

However, should Council decide to proceed with such an exemption/grace period, it would be necessary to change all permit parking and parking prohibition signs on streets with alternate side permit parking to reflect these new regulations. This could result in costs in the order of \$500,000 to \$700,000 to implement. This funding has not been accounted for in either the Transportation Services Operating Budget or the Capital Budget. Also, it is estimated that approximately 72,000 fewer parking tickets could be issued for this offence type between 9:00 a.m. and noon on the day following the changeover in residential permit parking zones where parking alternates from one side of the street to the other. These 72,000 tickets would include tickets issued to both permit holders and non-permit holders. It is not possible to provide a breakdown between tickets issued to permit holders versus non-permit holders given that the offence for these tickets is "parked in an area where parking is prohibited" rather than "parked in a

permitted area without a permit". A reduction of 72,000 parking tickets in this offence category translates to a reduction in parking fine revenue of approximately \$2.1 million, or a 2.8 per cent reduction in total revenues.

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

DECISION HISTORY

At its meeting of July 11-13, 2012, City Council adopted Item GM15.8: *Review of Parking Ticket Cancellation Guidelines*, which approved an amendment to the current Parking Ticket Cancellation Guidelines document to implement criteria to allow tickets for all time-restricted offences that are issued within 10 minutes of the expiry of the permitted parking time to be cancelled, excluding major arterial routes during rush hour periods. The revised Cancellation Guidelines were implemented in July of 2012.

Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.GM15.8>

Subsequently, at its meeting of May 7-10, 2013, City Council adopted, with amendments, Item GM21.6: *Parking Ticket Activity – 2012*. At that meeting, Council requested that:

- a. the Toronto Police Services Board amend the Parking Enforcement Unit Guidelines to allow for no parking tickets to be issued until a period of 10 minutes has elapsed from the expiry of a paid parking time, excluding rush hour;
- b. the City of Toronto Municipal Law Enforcement Officers (MLEOs) not issue parking tickets until a period of 10 minutes has elapsed from the expiry of a paid parking time; and
- c. the Parking Ticket Cancellation Guidelines be amended to provide for a grace period between 9:00 p.m. of one day to 12:01 p.m. of the next day for residential on-street permit parking areas when parking alternates from one side of the street to the other.

Items a and b above were referred to the Toronto Police Services Board for comment. Item c was implemented in May 2013, with amendments to the Parking Ticket Cancellation Guidelines to incorporate criteria to allow tickets for residential parking permits with alternate side parking to be cancelled if they were issued between 9:00 p.m. of the evening before the changeover and 12:01 p.m. on the following day. Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM21.6>

At its meeting of June 20, 2013, the Toronto Police Services Board considered the above item and referred it to the Chief of Police to review and to report back to the Board as to what by-law changes would be required to implement Council's direction.

Subsequently, at its meeting of October 7, 2013, the Toronto Police Services Board considered a September 13, 2013 report on this matter from Chief William Blair. The

Board approved the Chief's report, and a motion stating that if the City wishes to make changes to the current enforcement processes it should consider amending appropriate by-laws to reflect those changes.

Most recently, at its meeting of December 16-18, 2013, City Council adopted Item GM26.19: "*Toronto Police Service: Response to City Council's Motion on Parking Enforcement Grace Period*". Council's recommendations included that:

- a. City Council request the Toronto Police Service Board to reconsider the matter relating to parking enforcement Grace Periods and provide a 10-minute grace period for pay-and-display parking prior to issuing a Parking Infraction Notice; and
- b. City Council request the Toronto Police Services Board to provide a grace period between 9:00 p.m. of one day to 12:01 p. m. of the next day when parking alternates from one side of the street to the other and when on-street permit parking is in effect.

Council's decision on this item is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM26.19>

The Government Management Committee, in considering this item at its meeting of November 21, 2013, also forwarded a copy of the Toronto Police Services Board report, and requested that the General Manager, Transportation Services, in consultation with the City Solicitor and other affected divisions, report to the February 24, 2014 Government Management Committee meeting on possible amendments to the City's parking by-laws to effect the changes requested by City Council with respect to grace periods, including any operational, public safety or financial impacts associated with any recommended changes to the City's parking by-laws. This report responds to that request.

The Government Management Committee decision document is available at:

<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getDecisionDocumentReport&meetingId=6876>

ISSUE BACKGROUND

The Toronto Police Service Parking Enforcement Unit has long followed an established operating practice that allows for a five minute grace period prior to the issuance of a Parking Infraction Notice for on-street parking at pay-and-display parking machines. The five minute grace period is provided to ensure that any time discrepancies between the machines and individual time keeping devices are considered up front to avoid doubt should a parking offence move forward to prosecution.

The City's Parking Ticket Cancellation Guidelines have also traditionally contained a "time allowance" provision, allowing a ticket to be cancelled if it was issued within five minutes of the expiry of a paid receipt. In July of 2012, the time allowance provision within the Parking Ticket Cancellation Guidelines was amended to allow parking tickets issued for on-street pay-and-display parking machine offences to be cancelled where a ticket has been issued within 10 minutes of the expiry of the paid parking time. In

circumstances where a parking ticket has been issued (i.e., more than 5 minutes has elapsed after the expiry of the paid parking time, but fewer than 10 minutes has elapsed), vehicle owners were able to request a cancellation under the City's time allowance provision, either by visiting one of the City's four (4) parking ticket counters in person, or submitting an electronic request by fax or e-mail to apply to have the ticket cancelled.

Recognizing that maintaining two separate standards for the Parking Enforcement Unit's 5-minute grace period and the City's 10-minute time allowance created potential confusion to motorists, and acknowledging that it was illogical and created unnecessary work for parking enforcement officers, vehicle owners, and parking ticket operations staff to cancel tickets once issued, Council, in May of 2013, requested that the Toronto Police Service amend the Parking Enforcement Unit Guidelines to observe a 10-minute grace period before issuing a ticket for on-street pay-and-display type offences.

Similarly, with respect to grace periods for residential on-street permit parking areas when parking alternates from one side of the street to the other, the Toronto Police Services Parking Enforcement Unit has observed an operational practice of providing a grace period from 9:00 p.m. of the evening before the changeover to 9:00 a.m. of the following morning. In May of 2013, Council approved amendments to the City's Parking Ticket Cancellation Guidelines to incorporate criteria for residential permit parking to allow tickets issued on changeover dates for alternate side parking to be cancelled if they were issued between 9:00 p.m. of the evening before the changeover and 12:01 p.m. on the following day. This change was implemented in May of 2013. Again, this permitted vehicle owners to request a cancellation by visiting one of the City's four parking ticket counters in person, or submitting an electronic request by fax or e-mail to apply to have the ticket cancelled.

COMMENTS

Grace Periods for On-Street Pay-and-Display Parking

On-street pay-and-display parking refers to zones where paid parking is permitted in designated zones during signed hours. Pay-and-display parking requires that a motorist purchase a ticket for a period of time, and that the receipt for the purchased time is displayed on the dash of the vehicle while the vehicle is parked. Paid time-limited parking zones are intended to ensure the availability of short-term parking, while allowing for vehicle turnover, which supports the local business environment.

Under municipal by-laws, an offence is deemed to have occurred at the expiry of the paid parking period (the expiry time identified on the pay-and-display receipt). Traditionally, the Toronto Police Service (TPS) Parking Enforcement Unit has followed an operating practice that allows for a five minute grace period prior to the issuance of a parking ticket. The grace period observed by the police is not set out in parking by-laws, rather it is an operational practice adopted by the TPS for practical matters, to ensure that any time discrepancies between the machines and individual time keeping devices are considered up front to avoid doubt should a parking offence move forward to prosecution.

Legal Services has advised that City Council does not have the authority to require that the Toronto Police Services Board change its operational practice respecting grace periods. The Toronto Police Services Board, at its meeting of June 20, 2013, took the position that City Council's request to the TPS Board would require the Board to become involved in an operational issue; one that would require it to direct enforcement as well as potentially fetter officer discretion. Under the *Police Services Act*, this is prohibited.

The October 22, 2013 response from the Toronto Police Services Board to the Government Management Committee respecting grace periods advised that if the City wishes to make changes to current enforcement processes it should consider amending appropriate by-laws to reflect those changes. The Toronto Police Service response also provides that, in the event City Council amends parking by-laws, the Service will ensure that enforcement practices and operational deployment are modified.

Council has clearly indicated its intent to have a 10-minute grace period apply for on-street pay-and-display parking machines in permitted areas during non-rush hour periods, such that tickets are not issued until 10 minutes have elapsed following the expiry of the paid parking time. As such, this report recommends that Council amend the appropriate by-laws to implement this provision.

A by-law must clearly establish the conditions for when an offence has occurred. As such, existing by-laws establish that an offence is deemed to have occurred at the expiry of the paid parking period (in this instance, the expiry time identified on the pay-and-display receipt).

The appropriate City parking by-law(s) may, however, be amended to identify an *exemption* from the by-law requirement, where a fee is stipulated for a given parking period in a parking space, to pay or deposit a fee and to use or activate the parking machine in circumstances where a valid pay-and-display receipt had been purchased, and where 10 minutes or less time has elapsed since the expiry of the purchased time indicated on the pay-and-display receipt. The other by-law provisions, including the requirement to park in a parking space, will still govern. In other words, the exemption will not permit a driver to stop or park at any location where or at any time when stopping or parking is otherwise prohibited.

This would achieve Council's objective of providing the equivalent of a 10-minute grace period, and the Toronto Police would be required to enforce the by-law as amended. This report recommends that Council authorize amendments to the appropriate by-laws to give effect to the foregoing.

Aligning the Toronto Police Service Parking Enforcement Unit processes with Council's previously approved 10-minute time allowance provision within the Parking Ticket Cancellation Guidelines will eliminate the current confusion surrounding grace periods, as no tickets will be issued until 10 minutes following expiry of the paid parking time (provided the other conditions of the by-law are met). Additionally, vehicle owners will no longer be required to submit applications in person or by fax/email requesting

cancellations for tickets that were issued after 5 minutes but within 10 minutes of the paid parking expiry time. Should any revisions to the Parking Ticket Cancellation Guidelines be required to clarify or align the guidelines with the recommended amendments to the by-law, Council has previously delegated authority to the Treasurer or designate, in consultation with the City Solicitor, the General Manager of Transportation Services and the Toronto Police Service, to amend or update the parking ticket cancellation guidelines from time to time as warranted, to reflect and incorporate references to new by-laws or legislative requirements, new offences, amendments to existing by-laws or legislation, or new fines or fine amounts.

Grace Periods for Alternate Side Permit Parking on Changeover Days

The alternate side parking system allow streets with suitable widths and a similar number of parking spaces on both sides to be cleaned on both sides by mechanical sweeping equipment on a regular basis. Parking changes over from one side of the street to the other side at regular intervals, typically on the 1st and the 16th of each month from April until December. Alternate side parking usually operates in conjunction with permit parking regulations, where parking is allowed by permit only on one side of the street, and parking is prohibited at all times on the other side. The effective changeover time is 12:00 midnight in all areas. There is no provision for a grace period in either the permit parking or traffic by-laws.

In order to balance the absolute requirements of the by-law, traffic flow and safety issues associated with parking on two sides of the street, and the fair and safe opportunity for residents to relocate their vehicles to the other side of the street, the Toronto Police Parking Enforcement Unit has traditionally used discretion in enforcing the by-law provisions through the development of an operating practice. The current operating practice is for specific and limited periods of time (9:00 p.m. on the evening before the changeover until 9:00 a.m. on the day of the changeover), and is granted only in situations where traffic flow, safety and hazards are not a concern. From the Police's perspective, this has effectively provided for a balanced approach and accommodates both early and late risers, as opposed to expecting residents to move their vehicles at 12:01 a.m.

In May of 2013, Council approved amendments to the City's Parking Ticket Cancellation Guidelines with respect to residential permit parking to incorporate criteria to allow tickets issued on changeover dates for alternate side parking to be cancelled if they were issued between 9:00 p.m. of the evening before the changeover and 12:01 p.m. on the following day. This meant that the Police, in following their operating practice, could issue a ticket for vehicles parked on the wrong side of the street after 9:00 a.m., but that vehicle owners receiving a ticket after 9:00 a.m. but before 12:00 noon of that day could request a cancellation of the ticket by visiting one of the City's four parking ticket counters in person, or submitting an electronic request by fax or e-mail to apply to have the ticket cancelled.

There are serious public safety issues and concerns in simply amending the City's parking by-laws to provide an exemption from the application of the by-law between 9:00 p.m. on

the evening before the changeover to 12:01 p.m. of the next day. Amending the by-laws to allow parking on both sides of the affected streets on changeover days until 12:01 p.m. exposes pedestrians, cyclists, moving traffic, and parked vehicles to greater risk during times when vehicular and pedestrian traffic volumes are higher (e.g., morning rush hour and school drop off periods). With vehicles parked on both sides of the street during these daytime periods, traffic essentially becomes limited to a single lane, with drivers forced to pull over to allow oncoming traffic to pass, or weaving around parked vehicles. On narrow streets, there is the potential for blockage of the street that would prevent Fire, Police, and Emergency Services vehicles from getting through, delaying their response to emergencies.

The Toronto Police Service, Transportation Services, Toronto Fire and Emergency Medical Services have serious concerns over the possibility of extending the changeover period for alternate side parking when on-street residential permit parking is in effect. The Toronto Police Services' current operational practice of using discretion in enforcing the by-law between 9:00 p.m. of the changeover day and 9:00 a.m. on the following day, in order to facilitate the safe and orderly movement of vehicles, has been effective and is considered an appropriate and reasonable approach given the various operational objectives. As such, staff are not recommending that the permit parking by-law be amended to provide an exemption from the application of the by-law from 9:00 p.m. of one day to 12:01 p.m. of the next day when parking alternates from one side of the street to the other. The Toronto Police Service has advised that current operating practices will continue in the absence of amendments to the City's parking by-laws.

The City's Parking Ticket Cancellation Guidelines were amended in May of 2013 to incorporate criteria for residential permit parking to allow tickets issued on changeover dates for alternate side parking to be cancelled if they were issued between 9:00 p.m. of the evening before the changeover and 12:01 p.m. on the following day. A planned review of the current guideline provisions will be undertaken later in 2014 and will evaluate whether further amendments to the guideline are necessary to ensure that the guidelines are consistent with by-law provisions and police practice.

Should Council decide to proceed with such an exemption, it would be necessary to change all permit parking and parking prohibition signs on streets with alternate side permit parking to reflect these new regulations. These signs are already fairly complicated and these changes would add to the potential confusion for motorists. Also, this could cost in the order of \$500,000 to \$700,000 to implement. This funding has not been accounted for in either the Transportation Services Operating Budget or the Capital Budget.

Notwithstanding that staff are not recommending amendments to the by-laws governing alternate side permit parking, should Council choose to amend the City's Traffic and Parking by-law to incorporate an exemption from the application of the by-laws between the hours of 9:00 p.m. on the day before the changeover to 12:01 p.m. of the following day, the following recommended wording may be used to give effect thereto, in the form of an additional recommendation to this report.

- x. City Council authorize the City Solicitor, in consultation with the General Manager, Transportation Services, to introduce the necessary bills to amend the City of Toronto's by-laws, including, if necessary, City of Toronto Municipal Code Chapter 925, Permit Parking, City of Toronto Municipal Code Chapter 950, Traffic and Parking, to provide an exemption from prohibited parking on switch-over days and/or incorporate the period from 9:00 p.m. of the day before the switchover to 12:01 p.m. of the following day when parking alternates from one side of the street to the other, pursuant to by-law provisions and when on-street permit parking is in effect, subject to any safety considerations in the opinion of the Toronto Police Service.

Given that Council, at its meeting of December 16-18, 2013, recommended that the Toronto Police Service Board be requested to provide a grace period between 9:00 p.m. of one day to 12:01 p. m. of the next day when parking alternates from one side of the street to the other and when on-street permit parking is in effect, and that the Toronto Police Services Board has not yet responded to Council's request, staff are recommending that no by-law amendments be undertaken at this time. Should the Police be able to modify their operating practices to accommodate Council's request, while still ensuring that the Police retain appropriate enforcement and discretionary authority while preserving prosecutorial integrity, this would provide the optimum solution.

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