

Administrative Penalty System for Parking Violations - Revised Implementation Date – Re-establishment of Set Fines for Parking

Date: March 27, 2017

To: City Council

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

On July 14th, 2016 City Council approved the governance and administrative requirements to establish an Administrative Penalty System (APS) for parking violations (i.e. parking tickets). This change will move the dispute mechanism for violations of the City of Toronto's parking by-laws from a court based system to an administrative review model. In the report approved by Council, staff recommended an effective date of May 15, 2017 for the APS, the Administrative Penalty Tribunal, the new Code Chapter governing the APS and any associated by-law amendments. GMC Report 18.6 which is currently before City Council proposes that City Council approve a delay in the implementation of the Administrative Penalty system such that it will commence now on August 28th, 2017.

This report recommends that City Council approve the re-establishment of the previously approved set fines and the removal of fixed fines for parking offences effective April 10, 2017, as part of the transition to the Administrative Penalty System. Confidential Attachment #1 contains legal advice from the City Solicitor on the removal of fixed fines for parking.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council amend the City of Toronto's parking by-laws to remove the fixed fine system for all parking ticket offences, and to re-establish the already approved set fines effective April 10, 2017, to assist in the transition to the Administrative Penalty System for parking disputes.
2. City Council authorize the City Solicitor to introduce the necessary bills to give effect to Council's decision and authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, technical amendments, or by-law amendments as may be identified by the City Solicitor in order to give effect to Council's decision to remove the fixed fine system for all parking ticket offences.
3. City Council direct that the Confidential Attachment #1 to this report remain confidential.

FINANCIAL IMPACT

The financial impacts resulting from the recommendations made in this report are disclosed in Confidential Attachment 1.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information disclosed in Confidential Attachment 1.

DECISION HISTORY

On July 14th, 2016 City Council adopted GM13.12: Administrative Penalty System for Parking Violations. By adopting the recommendations, City Council approved the governance and administrative requirements to establish an Administrative Penalty System (APS) for parking violations (i.e. parking tickets) that will include an Administrative Penalty Tribunal. The program as outlined in the report was to become effective on May 15th, 2017. The link to the staff report and Council's decisions are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM13.12>

The Director of Court Services, the Treasurer, and the City Solicitor have recommended to City Council that the implementation date for the Administrative Penalty System be delayed until August 28, 2017 in a report to Government Management Committee dated February 10, 2017. This report was adopted by Government Management Committee and is currently before Council. The link to the staff report and Government Management Committee's decision are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM18.6>

At its meeting on September 21 and 22, 2011, City Council approved the implementation of a Fixed Fine System for all parking ticket offences, other than accessible parking offences, where a parking ticket proceeding results in a conviction after a defendant in court either pleads guilty or is found guilty. City Council further approved at that meeting that the Fixed Fine amounts be set equal to the presently-established Set Fines (the dollar amount that appears on the face of the ticket). The City Solicitor was authorized to take the appropriate action to amend the City's parking by-laws and to apply to the Senior Regional Justice of the Ontario Court of Justice for new set fine orders.

At the time of this decision, City Council had before it a report from the Treasurer and the City Solicitor recommending this step as a means to optimize the use of the City's courts by reducing the number of trial requests by individuals who do not intend to dispute their parking charge but who simply request a trial to obtain a reduced fine amount or with the hope that the issuing officer will not attend and the charges would be withdrawn. The report outlined that by reducing the number of trial requests made by parking ticket recipients, the costs incurred by the City associated with such trial requests would be reduced and the court capacity to hear and resolve other parking ticket disputes would be increased.

(The link to the staff report and Council's decision are available at:
<http://www.toronto.ca/legdocs/mmis/2011/gm/bqrd/backgroundfile-40569.pdf>)

COMMENTS

The Administrative Penalty System approved by City Council on July 14th, 2016 does not allow for a fixed fine system. One of the regulatory requirements of the new Administrative Penalty System adopted by City Council is that screening officers and hearing officers, who are replacing the current court based system, must have the ability to affirm, cancel, or reduce the administrative penalties and administrative fees associated with a Penalty Notice issued under the Administrative Penalty System. The Administrative Penalty System effectively would eliminate the fixed fine system which does not allow for the amendment of a fine amount.

Removing the fixed fines for parking offences in advance of the revised implementation date for the Administrative Penalty System will assist in the transition to the new system by ensuring that there is not a disproportionate effect for those who receive parking tickets as a result of the delayed implementation date.

The Director of Court Services and the Treasurer have reviewed this Report and support the recommendations.

CONTACT

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SIGNATURE

Wendy Walberg, City Solicitor

ATTACHMENTS

Attachment 1: Confidential Information