

Grace Period for Permit Parking and the City's Administrative Penalty System

Date: April 9, 2021

To: General Government and Licensing Committee

From: City Solicitor, Director, Revenue Services, Director, Court Services

Wards: All

SUMMARY

This report responds to City Council's direction through [Item GL14.8: Administrative Penalty Tribunal Chair's 2019 Annual Report](#), to report on whether City Council's decision on [Item 2013.MM30.7](#) headed "Saving Grace" is being applied by the Administrative Penalty Tribunal.

Staff completed a comprehensive analysis of whether the Saving Grace policy has been applied through a review of the following programs' operational procedures and outcomes:

1. First Appearance Facilities, Revenue Services (prior to August 27, 2017)
2. Administrative Penalty System – Screening Officers
3. Administrative Penalty System – Administrative Penalty Tribunal

This report confirms that the grace period for on-street permit parking on switch-over days as set out in Item 2013.MM30.7 "Saving Grace" has been and continues to be consistently applied by the City's Screening Officers and has been adopted by the Administrative Penalty Tribunal.

Changes were made to the Toronto Police Services internal operational practices and procedures to reflect a grace period from 9:00 pm on the evening before the change-over to 12:00pm on the afternoon following the change-over.

RECOMMENDATIONS

The City Solicitor, the Director, Revenue Services, and the Director, Court Services recommend that:

1. The General Government and Licensing Committee receive this report for information.

FINANCIAL IMPACT

There are no financial impacts from the recommendations in this report.

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

DECISION HISTORY

At its meeting on July 28, 2020, City Council, in adopting [Item GL14.8: Administrative Penalty Tribunal Chair's 2019 Annual Report](#), requested the City Manager to report to the General Government and Licensing Committee whether City Council's decision on Item 2013.MM30.7 headed "Saving Grace" is being applied by the Tribunal.

On July 14, 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 for parking violations (i.e. parking tickets) that included an Administrative Penalty Tribunal.

On February 20, 2013, City Council adopted [Item MM30.7: Saving Grace](#) by Councillor Paula Fletcher, seconded by Councillor Mike Layton. The approval of 2013.MM30.7 formalized the grace period for on-street permit parking on switch-over days, beginning three hours before the permit parking hours begin and extending three hours after permit parking hours end (i.e. until noon of the next day). Member Motion MM30.7 also directed that the policy be clearly articulated to residents and Parking Enforcement, with the information readily and easily available on the City's website.

The Administrative Penalty Tribunal is an independent adjudicative body consisting of 25 public Panel Members referred to as Hearing Officers. Hearing Officers are appointed by City Council and have the authority to affirm, vary, or cancel the decision of a Screening Officer and extend time for payment. In carrying out this mandate, the Tribunal is authorized to conduct pre-hearings and mediations. Decisions of the Hearing Officers are final – there is no further appeal.

ISSUE BACKGROUND

The approval of MM30.7 by City Council in February 2013 formalized the grace period for on-street permit parking on switch-over days, beginning three hours before the

permit parking hours begin and extending three hours after permit parking hours end. In practical terms, the grace period applies from 9:00pm on the evening before the switch-over to 12:00 pm on the day after the switch-over.

City of Toronto Parking Ticket Cancellation Guidelines (Guidelines) approved by Council established criteria for cancellation of Parking Infraction Notices by Revenue Services at its First Appearance Facilities. Staff determined whether the grace period policy was being applied by reviewing approved operating guidelines and analyzing audit reports between February 2013 and August 27, 2017 under the City's former parking dispute process.

Effective August 27, 2017, Screening Officers conduct reviews of parking violations and apply the Council approved grace period policy.

COMMENTS

Protocols and policies under the City's former First Appearance Facility parking ticket dispute resolution structure related to the Saving Grace policy

Prior to the implementation of Toronto's Administrative Penalty System for Parking Violations in August of 2017, motorists who wished to pay or dispute a parking ticket could attend one of four First Appearance Facilities operated by Revenue Services. First Appearance Facilities staff reviewed tickets to determine if they could be cancelled under the Council approved [City of Toronto Parking Ticket Cancellation Guidelines](#), which set out the grounds, criteria and documentation required to have a ticket cancelled. Where disputes could not be resolved by First Appearance Facilities staff, parking ticket offenders had the option of requesting a trial before a Justice of the Peace under the Provincial Offences Act.

As a result of Council's adoption of Item MM30.7, "Saving Grace" on February 20, 2013, amendments to the City's Parking Ticket Cancellation Guidelines were made to allow tickets to be cancelled if they were issued between 9:00 pm of the evening before the switch-over and 12:01pm (noon) on the following day. Section 3.1 of the guidelines provided a specific list of conditions that had to be met for a parking ticket related to alternate side parking to be cancelled:

1. The location of the infraction is on a street where Alternate Side parking rules apply;
2. The parking ticket was issued to a vehicle with a residential parking permit;
3. The infraction was Offence Code 29;
4. The parking ticket was issued between the hours of 9:00pm and 12:01pm on the evening before and day of the switch-over period (typically the 16th of each

month except when the 16th of the month occurs on a weekend or statutory holiday which then moves the switch-over date to the following business day.

Extending grace period cancellations on switch-over days was operationalized at the City's First Appearance Facilities in April 2013 and remained in place until August 27, 2017 when the new Administrative Penalty System came into effect.

The City's Auditor General completed a series of compliance audits through random sampling. The review found that cancellations under the grace period reason codes were in place from 2013 – 2017 and the auditor found no non-compliance issues during that period.

Protocols or policies within the Administrative Penalty System dispute resolution screening process related to the Saving Grace policy

Through Item GM13.12 City Council delegated to the City Solicitor the authority to appoint Screening Officers who are City employees, required by O. Reg. 611/06 to respond to requests for review of penalty notices issued under the City's Administrative Penalty System established under this regulation. Upon receipt of a request to review a parking violation notice, Screening Officers may affirm, cancel or vary the penalty amount and may also extend time for payment. Screening Officers also issue decision documents upon completing a Screening Review.

Screening Officers conduct reviews consistent with the Council approved grace period. The Screening Officers carefully review, and when appropriate cancel Parking Violation Notices issued between 9:00 pm of the evening before the switch-over and 12:01pm (noon) on the following day on switch-over days.

All Screening Officers have received training and instructions that are consistent with the Council's approved grace period policy.

Administrative Penalty Tribunal

The Administrative Penalty System was enacted on August 28, 2017. This included the implementation of the Administrative Penalty Tribunal, which started conducting parking violation notice hearing reviews on November 20, 2017.

The Administrative Penalty Tribunal is governed by the Statutory Powers Procedure Act, its own Rules of Practice, Guiding Principles, the Code of Conduct for Members of Adjudicative Boards, the Municipal Conflict of Interest Act, Ontario Regulation 611/06 Administrative Penalties and Chapter 610 of the Toronto Municipal Code.

The Administrative Penalty Tribunal is an independent adjudicative body, consisting of 25 public Panel Members referred to as Hearing Officers. Hearing Officers are

appointed by City Council. The inaugural Administrative Penalty Tribunal body was appointed to a four year term of office by City Council on May 26, 2017.

While the Tribunal is an independent adjudicative body and is not bound by the City's directive on Parking Violation Notices cancellation policy, it adopts and applies the City's Guidelines. The Administrative Penalty Tribunal follows the same cancellation guidelines or, at minimum, their practices are aligned with those of the Screening Officers.

Toronto Police Services

To align with the Council approved Saving Grace Policy, in October 2020 Parking Enforcement amended its operational enforcement practices and procedures regarding the switch-over period for alternate side street parking. Staff operating procedures and training manuals have been updated to reflect this change in practice. A recently conducted analysis and review of parking violation notices issued during the period from January 1 to February 28, 2021 demonstrated full compliance with the Council's direction on applying grace period.

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