

Committee of the Whole (2) Report

DATE: Wednesday, October 11, 2023

WARD(S): ALL

**TITLE: ADMINISTRATIVE MONETARY PENALTIES BY-LAW
AMENDMENTS**

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

Staff seek to make amendments to Administrative Monetary Penalties By-law 063-2019, as amended, and associated policies and procedures to improve transparency and service to citizens and visitors with respect to the dispute process for parking and other by-law matters.

Report Highlights

- In accordance with the City's By-law Strategy, staff continue to review by-laws on a cyclical basis; however, as issues, challenges and opportunities arise, staff also bring forward recommended by-law amendments.
- The recommendations in this report are intended to facilitate and make more efficient the process for requesting to extend the time to request a screening or hearing, by making the decision to provide such an extension an administrative decision (as opposed to an adjudicative one), and to provide greater transparency to contraveners as to their rights and obligations.

Recommendations

1. THAT the amendments, as provided in this report, be approved; and
2. That the proposed by-law amendments to the Administrative Monetary Penalties By-law be in a form satisfactory to the City Solicitor.

Background

The administrative monetary penalties program was established in Vaughan in 2009. The main aim of the program was to divert minor by-law matters from the court system to a municipal adjudicatory system, governed by legislation, specifically O. Reg. 333/07 under the *Municipal Act, 2001*, and implemented through by-law. The City's program began with its Parking By-law, followed by its Business Licensing By-law. Nearly a decade-and-a-half later, Administrative and Monetary By-law 063-2019, governs how the City of Vaughan adjudicates matters for all by-laws designated under the program, which currently encompasses some twenty-one regulatory by-laws.

The by-law outlines how penalty notices are served, describes a contravener's options (i.e., pay or dispute), and lays out the process for screenings and hearings. It also stipulates a contravener's responsibilities with respect to scheduling screening appointments and paying penalties and other applicable fees (such as late fees and fail-to-attend fees), and it sets out the City's remedies when amounts go into default. Under section 8.(1) of O. Reg. 333/07 of the *Municipal Act, 2001*, a municipality must provide a process for extending the time to request a screening or hearing for circumstances prescribed in the by-law. In Vaughan, under the current by-law provisions, this process requires a review of the extension request by a Screening Officer for screenings and a Hearings Officer for hearings.

Recently, staff have noticed a significant increase in the number of people that upon receiving a payment-due notice call the City to claim that they never received the original penalty. It is difficult to ascertain the exact reason for why a penalty notice left on the windshield of a vehicle might not be received, but weather events or oversight are certainly two significantly likely reasons. Since these people all call after the 15-day period, they can no longer dispute their penalty notice through the adjudication process. Although they are eligible to request an extension to request a screening, they are rarely aware of this possibility. Because of this issue, staff have identified the need to provide more clarity to the public through changes in the Administrative and Monetary By-law and its associated policies.

Previous Reports/Authority

- [Administrative Monetary Penalties By-law](#) (approved by Council on May 1, 2019)

Options and Analysis

Currently, the City's Administrative and Monetary By-law 063-2019 states that the Screening Officer may grant an extension to the contravener to request a review of an Administrative Monetary Penalty. Similarly, the Hearings Officer may grant the extension to the contravener to request a review of a decision by a Screening Officer.

O. Reg. 333/07 does not require that it be a Screening Officer or Hearings Officer that grants the extension. Thus, the following amendments to Administrative Monetary Penalties By-law 063-2019, as amended, are being proposed:

- 1) Where extenuating circumstances exist, the time to request a review of an Administrative Monetary Penalty may be extended if a request is made by a Contravener within thirty (30) days of the date of service of the Penalty Notice or notification of a Screening Officer's decision.
- 2) A request for an extension under the above section shall be made in writing in a form approved by, or otherwise satisfactory to, the Chief Licensing Officer.
- 3) Where extenuating circumstances exist, the time to request a review of the Screening Officer's decision may be extended if a request is made by a Contravener within thirty (30) days of notification of a Screening Officer's decision.
- 4) A request for an extension under the above section shall be made in writing in a form approved by, or otherwise satisfactory to, the Chief Licensing Officer.

These amendments shall make such extensions administrative decisions and shall provide contraveners with an opportunity to have any extenuating circumstances considered. To enhance transparency, contraveners would now be explicitly notified in their notice of payment due that if they have not paid or disputed their penalty notice prior to the 15-day deadline, they may either pay without penalty until the 30th day or submit a request to extend the time to request a screening on the basis of extenuating circumstances. It is important to note that this is not a change in policy or substantive change to the by-law itself. Contraveners availing themselves of this last option would be required to file a declaration as to the circumstances and such a declaration would be reviewed administratively, rather than by a Screening Officer or Hearings Officer, which requires an amendment to the By-law. This change is expected to make such determinations more efficient, as these determinations now require for the matter to be scheduled and heard by an adjudicator. Under the proposed recommended changes, the submission of matters would be standardized (through a standard form) and would be considered by client services management, thus avoiding the need to schedule an appointment with an adjudicator in the future just for this explicit purpose.

Financial Impact

It is estimated that up to approximately one percent of all notices issued may experience issues pertaining to timing/failure to receive a notice. As such, staff expect

the additional costs associated with more screenings and hearings to be offset by savings from less time spent dealing with escalated cases. The intangible benefits of the proposed change would be lowered reputational risk associated with escalations, fewer confrontations with clients, which would result in less staff stress, and (nominal cost aside) staff being able to focus on higher-value tasks.

Operational Impact

The recommendations provided in this report have been reviewed and approved by Legal Services Department.

Broader Regional Impacts/Considerations

There are no specific broader impacts or regional considerations beyond those already discussed in this report.

Conclusion

In line with provincial regulations, and in order to obtain greater efficiency in the administration of the regulations in the City, it is deemed expedient to amend the City's Administrative Monetary Penalties By-law. This meets Council's Service Excellence and Accountability strategic priority, by improving transparency and increasing the efficiency of administration.

For more information, please contact: Susan Kelly, Chief Licensing Officer and Director of By-law and Compliance, Licensing and Permit Services, ext. 8952

Attachments

N/A

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Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

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Reviewed by

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Nick Spensieri, City Manager