

Category: Finance

## **Provincial Offences Act Fines Collection and Write-Off Policy**

Policy Number: [Policy Number (assigned by CAO's Office, after approval)]  
Approved by: Choose an item. [Council Resolution #] – [Date]  
Administered by: Finance Division, Corporate Support Services  
Effective Date: [Date]

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## 1. Background

The City is responsible for the administration and collection of Provincial Offences Act fines (POA) and for determining when such fines shall be deemed uncollectable.

The *Provincial Offences Act, R.S.O., 1990* ('the Act') is a provincial statute that sets out procedures for the prosecution of offences under other provincial statutes, regulations, and municipal by-laws. Under a Memorandum of Understanding (MOU), municipalities are responsible for the administration of courts hearing POA matters and the prosecution of certain POA cases on behalf of the Attorney General. The MOU requires the municipality to collect and enforce fines under the Act.

Fines will include costs and the applicable victim fine surcharge. Fines unpaid by the due date will result in an additional administrative fee. Fines unpaid by the due date are considered defaulted fines and collection actions are initiated.

## 2. Purpose

The purpose of this Policy is to:

- 2.1 Provide for the responsible, systematic, and efficient collection and write-off of uncollectable defaulted fines;
- 2.2 Ensure that uncollectable defaulted fines are written off in a timely and consistent manner; and,
- 2.3 Establish the threshold for write-off of fines.

## 3. Application and Scope

3.1 This Policy applies to:

- 3.1.1 Debtors who have defaulted fines;
- 3.1.2 All defaulted fines that the City is responsible for collecting; and,
- 3.1.3 Staff involved with or responsible for the collection and write-off of defaulted fines.

3.2 This Policy should be read in conjunction with the MOU between the Ministry of Attorney General and the Corporation of the City of Brampton, the Ministry of Attorney General Write-Off Directive and Operating Guidelines, and applicable legislation, City by-laws, policies, and procedures.

3.3 Exceptions

- 3.3.1 This Policy does not apply to General Accounts Receivable and Property Taxes which are subject to separate policies and/or legislation.

## 4. Outcomes

The intended outcomes of this Policy are:

- 4.1 Clear guidelines with respect to the collection and write-off of defaulted fines, and applying reasonable efforts to minimize the amount of accounts recommended for write-off on an annual basis.
- 4.2 The collection of defaulted fines are given equal effort and treatment without regard to whether the resulting fine will be retained by the municipality or remitted to a third party.
- 4.3 A consistent and transparent customer experience.

## 5. Principles

- 5.1 **Transparency** – Ensure that the reasons for any write-offs are transparent and justifiable.
- 5.2 **Financial Stewardship** – Maintain trust and confidence in the stewardship of public funds.
- 5.3 **Prompt and Consistent** – All POA fines are collected in a prompt and consistent manner to ensure that the City maintains the foremost integrity during all stages of the collection process.

## 6. Policy Statements

### 6.1 General

- 6.1.1 The City will conduct its collection activities in accordance with the Act and associated SOPs with this Policy.
- 6.1.2 The City will make all reasonable efforts to collect defaulted fines imposed under the Act and minimize the value of defaulted fines recommended for write-off.

### 6.2 Collections

- 6.2.1 The City will follow the collection tools for defaulted fines as defined under the Act.
- 6.2.2 Prior to escalation, a Final Notice letter will be sent to the Debtor prompting payment of the defaulted fine.
- 6.2.3 At the discretion of the Treasurer or delegate, the defaulted fine may be added to the tax roll of Brampton or those of other municipalities as authorized under the *Municipal Act, 2001*.

- 6.2.4 Where an addition to the tax roll is not possible under the *Municipal Act, 2001*, litigation may be taken through one or more of the following measures:
- a) Filing of a Certificate of Default;
  - b) Writ of seizure and sale of land;
  - c) Garnishment of wages and bank account; and/or
  - d) Debtor examination.
- 6.2.5 Once all internal collection tools have been exhausted, including where addition to the tax roll is not possible, and/or civil enforcement is deemed unviable, the defaulted fines may be listed with a Collection Agency for further collection activities.
- 6.2.6 The City may use multiple collections agencies on a rotational basis. No more than one Collection Agency will be assigned to the collection of the same fine.
- 6.2.7 All collection arrangements made with a Collection Agency must be documented.

### 6.3 Write-Off

- 6.3.1 Records will be retained with respect to the accounts being written-off to provide an audit trail to support any future reinstatement of collection efforts in accordance with Records Retention By-law 272-2014.
- 6.3.2 Once all reasonable efforts to collect a defaulted fine have been exhausted, staff will recommend the defaulted fine for write-off in accordance with the threshold and other provisions set in this Policy and the Administrative Authority By-law 216-2017.
- 6.3.3 The Treasurer is authorized to write off certain amounts in accordance with Schedule A – Authorization and Write-Off Levels, all other provisions within this Policy, and Administrative Authority By-law 216-2017. Schedule A is appended to this policy document.
- 6.3.4 The Manager of Corporate Collections, the Manager of Court Administration and the Supervisor of Court Administration is authorized to write off certain amounts in accordance with Schedule A – Authorization and Write-Off Levels and Administrative Authority By-law 216-2017.
- 6.3.5 POA Collectors and Court and Client Representatives are authorized to write off certain amounts in accordance with Schedule A – Authorization and Write-Off Levels and Administrative Authority By-law 216-2017.

- 6.3.6 The threshold for the write-off of outstanding POA fines greater than \$25,000 must receive Council authorization.
- 6.3.7 Fines imposed by the POA Courts are debts owed to the Crown and therefore are not subject to the *Limitations Act, 2002*. POA accounts receivable may be written-off for accounting purposes only and do not absolve a convicted Offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity and never forgiven.
  - a) At any time, the Manager of Corporate Collections or the Manager of Court Administration can reinstate written-off fines to active collection when it is deemed viable and feasible for the collection of the fines.

## **7. Monitoring and Compliance**

### 7.1 Consequences of non-compliance

- 7.1.1 Failure to follow the provisions outlined in this Policy may result in lost revenue for the City.

### 7.2 Reports to Council

- 7.2.1 On an annual basis the Treasurer will provide City Council with an information report outlining collection activities and the total number of fines and amounts to be written off in accordance with Administrative Authority By-law 216-2017 as amended.

## **8. Roles and Responsibilities**

### 8.1 City Council

- 8.1.1 Authorizes write-offs for amounts greater than \$25,000.

### 8.2 City Treasurer

- 8.2.1 Authorizes write-offs in accordance with this Policy.
- 8.2.2 Reports Collection activities and write-offs to Council in accordance with this Policy.
- 8.2.3 Seeks Council authorization for write-off amounts greater than \$25,000.
- 8.2.4 Adds unpaid fines to the City's tax roll, as appropriate.
- 8.2.5 Enters into agreements with other Ontario municipalities to allow unpaid fines to be added to the tax roll in those municipalities.

### 8.3 Senior Manager of Revenue

8.3.1 Ensures all applicable managers/supervisors are aware of this Policy.

#### **8.4 Manager, Corporate Collections**

8.4.1 Ensures staff are aware, trained, and in compliance with this Policy.

8.4.2 Ensures documentation and records are maintained.

8.4.3 Authorizes write-off of the unpaid balance of fines of \$2,500.00 or less.

8.4.4 Reviews all accounts that are prepared for write-off.

#### **8.5 Collections Unit Staff**

8.5.1 Carries out collection activities as directed, as per this policy, and any associated standard operating procedures.

8.5.2 Ensures compliance with this Policy.

8.5.3 Prepares and review accounts for write-off.

8.5.4 Liaises with Provincial Court Administration staff and Legal Services as required.

#### **8.6 Manager, Court Administration**

8.6.1 Ensures applicable staff are aware, trained, and in compliance with this Policy.

8.6.2 Ensures staff comply with this Policy.

8.6.3 Ensures documentation/records are maintained.

8.6.4 Authorizes write-off of the unpaid balance of fines of \$2,500.00 or less.

#### **8.7 Provincial Court Administration Staff**

8.7.1 Ensures compliance with this Policy.

8.7.2 Ensures all court files are updated in ICON and the collection system.

8.7.3 Provides information to Collection staff and Legal Services staff as required.

8.7.4 Liaises with Collection staff regarding payment of defaulted fines.

#### **8.8 Legal Services Staff**

8.8.1 Ensures compliance with this Policy.

8.8.2 Determines and commences litigation when appropriate.

8.8.3 Ensures documentation/records of all transactions are maintained.

8.8.4 Recommends defaulted fines for write-off where applicable.

## 9. Definitions

9.1 **Collection Agency** – A registered third-party company contracted by the City for the collection of defaulted fines. Collection agency activities are regulated by the *Collection Agencies Act* and by the Ministry of Government and Consumer Services.

9.2 **Debtor** – A person or organization that owes a sum of money.

9.3 **Defaulted Fine** – Any part of a fine that remains unpaid for a minimum of 15 calendar days after its due date, as provided by the Ontario Ministry of the Attorney General's Office.

9.4 **Final Notice** – A notice issued to an Offender by the City of Brampton requesting payment of the defaulted fine.

9.5 **Fine** – A POA fine imposed against an Offender in respect of a charge administered by the Ontario Court of Justice – Brampton Provincial Offences Court. A fine includes the fine itself, assessed by legislation or by the Court, and all the associated costs, surcharges, and fees.

9.6 **ICON** – The Integrated Court Offence Network database owned and operated by the Province of Ontario, which maintains records of the status of all POA cases and fines.

9.7 **Offender** – An individual or business against which a charge has been imposed under the POA.

9.8 **POA** – The *Provincial Offences Act, R.S.O., 1990*.

9.9 **Write-off** – The removal of an uncollectable defaulted fine from ICON and the cessation of collection activity.

## 10. References and Resources

This Policy should be read and applied in conjunction with the following references and resources as updated from time to time. Please note that some of the following documents may not be publicly available.

### 10.1 External references

- [Collections Agencies Act, 1990](#)
- [Limitations Act, 2002](#)
- Memorandum of Understanding between City of Brampton and Ministry of the Attorney General of the Province of Ontario
- Ministry of Attorney General Write-Off Directive and Operating Guideline
- Ministry of Attorney General Retention Schedule
- [Municipal Act, 2001](#)
- [Provincial Offences Act, 1990](#)
- [Bankruptcy and Insolvency Act, R.S.C, 1985](#)

### 10.2 References to related by-laws, Council policies, and administrative directives

- [Administrative Authority By-law 216-2017](#)
- [Controllership 13.0.1](#)
- [Corporate Fraud Prevention Policy GOV-110](#)
- [Records Retention By-law 272-2014](#)

### 10.3 References to related corporate-wide procedures, forms, and resources

- Cash Handling Guidelines and Standards

## 11. Revision History

Date	Description
2023/10/01	Next Scheduled Review



### Schedule A – Authorization and Write-Off Levels.

Consistent with the Administrative Authority By-law 216-2017 (as amended)

Write-off Category	Amount	Required Authorization
Court Cost, Internal Collection fee and Collection Agency fees only when unable to enforce	\$95.00	Court and Clients Representative POA Collectors
Court Cost, Internal Collection fee and Collection Agency fee	Any Balance only when not able to enforce	Supervisor, Court Administration Manager, Court Administration Manager, Corporate Collections
Deceased Person	Any Balance	Manager, Court Administration Manager, Corporate Collections
Aged Defaulted Fine, uncollectible interest and administration fees	Fine balance to \$2,500.00	Manager, Court Administration Manager, Corporate Collections Supervisor, Court Operations and Administration
Aged Defaulted Fine uncollectible interest and administration fees	Fine Balance from \$2,500.01 to \$24,999.99	Treasurer
Aged Defaulted Fine uncollectible interest and administration fees	Fine Balance \$25,000 or greater	Council
Aged Defaulted Fine involving bankruptcy if deemed uncollectible by Legal Services	Any Balance	Manager, Corporate Collections