

Policy Title: Provincial Offences Act (POA) Collection of Defaulted Fines

Policy Number: 04-07-03

Section:	Finance and Accounting	Subsection:	Accounts Receivable
Effective Date:	February 21, 2018	Last Review Date:	May, 2021
Approved by: Council		Owner Division/Contact: Manager, Revenue & Taxation, Revenue and Materiel Management or the Manager, Court Administration, Legislative Services, Corporate Services Department.	

Policy Statement

The City of Mississauga is responsible for the collection of defaulted *Provincial Offences Act* (POA) fines and for determining when such fines shall be deemed uncollectible.

Purpose

This policy establishes:

- An overview of the collection and Write-off processes, and
- Roles and responsibilities of staff

Scope

This policy applies to all defaulted *Provincial Offences Act* (the “Act”) fines under Parts I and III of the Act.

Legislative Authority

This policy complies with the *Municipal Act, 2001* and the *Provincial Offences Act*, as amended.

The Write-Off Directive and Operating Guideline (the “Guideline”) published by the Ministry of the Attorney General applies to all municipal partners that are subject to a POA Transfer Agreement, including the City of Mississauga. The Guideline provides guidance with respect to best practices regarding the write-off of POA accounts that have been deemed uncollectible, as well as mandatory requirements. This policy complies with and will be applied in accordance with the Guideline.

Definitions

For the purposes of this policy:

“CAMS” means the Court Administration Management System used by the City to maintain records of the collection status of Defaulted Fines.

“Certificate of Default” is a certificate filed by Collections staff or Legal Services, City Manager’s Department, with Small Claims Court (\$25,000 and under) or Superior Court greater than \$25,000) certifying the amount of the Defaulted Fine.

“City” means the Corporation of the City of Mississauga.

“Collection Agency” means a registered third party organization engaged by the City for the collection of Defaulted Fines.

“Defaulted Fine” means any part of a Fine that remains unpaid for a minimum of 15 calendar days after due date, as provided by the Ontario Ministry of the Attorney General’s Office.

“Final Notice” means a notice issued to an Offender by the City requesting payment of a Defaulted Fine prior to the collection processes being initiated.

“Fine” means a *Provincial Offences Act* fine imposed against an Offender in respect of a charge administered with the City’s court, the Provincial Offences Division of the Ontario Court of Justice. A Fine includes the fine itself, assessed by legislation or the Court, and all associated costs, surcharges and fees.

“ICON” means the Integrated Court Offence Network database owned by the Province of Ontario, which maintains records of the status of all provincial offences cases and Fines.

“Offender” means an individual or business that has received a Ticket.

“Ticket” means a certificate of offence issued by an officer under the *Provincial Offences Act*.

“Victim Fine Surcharge” is a surcharge imposed by the provincial government that is added to every Fine imposed under the *Provincial Offences Act*. The surcharge is credited to a special fund to assist victims of crime. The surcharge amount varies depending on the offense.

“Write-off” means the cessation of active collection.

Accountability

Commissioner, Corporate Services

The Commissioner of Corporate Services is accountable for:

- Authorizing Write-offs in accordance with this policy, and
- Reporting Write-offs to Council in accordance with this policy

Director, Revenue and Materiel Management

The Director, Revenue and Materiel Management, is accountable for:

- Ensuring all applicable managers/supervisors are aware of this policy, the Guidelines and any related protocols and/or any subsequent revisions
- Ensuring compliance with this policy, the Guidelines and any related protocols
- Authorizing write-off of the unpaid balance of Fines of \$55 or less, and
- Entering into agreements with other Ontario municipalities to allow unpaid Fines to be added to the tax roll in those municipalities

Manager, Revenue and Taxation

The Manager, Revenue and Taxation is accountable for:

- Ensuring applicable staff are aware of and trained on this policy, the Guidelines and any related protocols, and/or any subsequent revisions
- Ensuring staff comply with this policy and follow any related guidelines and protocols, and
- Ensuring documentation/records of all transactions are maintained

Supervisor, Collections

The Supervisor, Collections, is accountable for:

- Ensuring administration of uncollectible Defaulted Fines in accordance with this policy, the Guidelines and any related protocols
- Ensuring compliance with this policy, the Guidelines and any related protocols, and
- Reviewing all accounts that are prepared for Write-off

Collections Unit Staff

Collections Unit staff are accountable for:

- Collection of Defaulted Fines in accordance with this policy, the Guidelines and any related protocols
- Preparing and reviewing accounts for Write-off
- Ensuring compliance with this policy, the Guidelines and any related protocols, and
- Liaising with Provincial Court Administration staff and/or Legal Services staff as required

The Manager, Court Administration

The Manager, Court Administration is accountable for:

- Ensuring applicable staff are aware of and trained on this policy, the Guidelines and any related protocols, and/or any subsequent revisions
- Ensuring staff comply with this policy, the Guidelines and any related protocols, and
- Ensuring documentation/records of all transactions are maintained

Provincial Court Administration Staff

Provincial Court Administration staff are accountable for:

- Ensuring compliance with this policy, the Guidelines and any related protocols
- Ensuring all court files are updated in CAMS and ICON as required
- Providing information to Legal Services, as requested, and
- Liaising with Collections staff regarding Offender payments

Legal Services Staff

Applicable Legal Services staff are accountable for:

- Ensuring compliance with this policy, the Guidelines any related protocols
- Reviewing files from Collections Unit staff, as provided
- Determining if civil action can be taken or if third party collection should be pursued
- Ensuring documentation/records of all transactions are maintained, and
- Recommending Defaulted Fines for Write-off, where applicable

Administration

The City operates its municipal court pursuant to a Memorandum of Understanding (MOU) with the Attorney General for the Province of Ontario. Among other things, the MOU requires the municipality to collect and enforce Fines as authorized under the Act. The Collections Unit, Revenue and Materiel Management Division, Corporate Services Department, in consultation with the Court Administration Section, Legislative Services, Corporate Services Department, administers the collection and/or Write-off of Fines.

Background

Tickets issued under the Act provide the Offender the following three options:

Option 1: Plea of guilty with payment (no Court appearance)

Option 2: Early resolution meeting with a prosecutor to discuss a resolution of the matter

Option 3: Trial with notice of intention to appear in Court

The Offender must choose one of the options within fifteen calendar days of the date the Ticket is issued. If the Offender fails to do so or if the Offender does not appear for trial, they are deemed to not wish to dispute the charge and a Justice of the Peace may enter a conviction in their absence.

Upon conviction, the Offender is required to pay the set Fine, including costs and the applicable Victim Fine Surcharge. In addition, an administrative fee is payable if the Offender does not pay the Fine by the due date. At this point the Fine is considered to be a Defaulted Fine.

Note: The Victim Fine Surcharge is paid to the Province first. The remaining payment is then applied toward the Fine and any other fees.

Collection Process

Final Notice

On or about the first week of each month, the Collections Unit receives a file from the Ministry of the Attorney General (MAG) listing newly Defaulted Fines.

Final Notice for payment is to be issued. A Defaulted POA Fines Administrative Fee may be applied in accordance with the General Fees and Charges By-Law, as amended.

Final Notices are not issued where the Defaulted Fine is less than \$5.00. These fines will be written off, as further collection efforts exceed the value of the debt.

Collection Methods

If payment is not received within 15 calendar days, the following collection actions will be taken, based on the most effective collection method:

- Added to the City property tax roll or the tax roll of another municipality, or
- Forwarded to the Legal Services Division, City Manager's Department, to review for civil action, or
- Forwarded to a third party Collection Agency

All collection steps undertaken will be documented in CAMS.

Adding to the Tax Roll

In accordance with Section 441.1 of the *Municipal Act, 2001*, Defaulted Fines will be added to the tax roll of property owners, either in Mississauga or another municipality, where possible, and collected as taxes. The City may pursue and execute agreements with other Ontario municipalities to allow unpaid *Provincial Offences Act* fines to be added to the tax roll in those municipalities for collection purposes and to collect such amounts on behalf of the other municipalities on a reciprocal basis.

The Director, Revenue and Materiel Management is authorized to enter into inter-municipal agreements for the collection of outstanding *Provincial Offences Act* fines with other municipalities and execute all necessary documents, in a form satisfactory to Legal Services.

Civil Action

If the Defaulted Fine cannot be added to the tax roll, Legal Services will make an assessment as to whether further civil action is appropriate. Where it is determined that civil action should not be pursued, the file will be returned to the Collections Unit to pursue via a third party Collection Agency.

Files will remain with Legal Services until any initiated civil enforcement action has been completed or until Legal Services has exhausted all reasonable collection efforts available in the circumstances. At this time the files are returned to Collections. All fees incurred by the City related to civil enforcement will be the responsibility of the Offender.

Civil enforcement for the collection of Defaulted Fines may include any or all of the following actions:

- Negotiated payment arrangements with the Offender
- Writ of seizure and sale of land and/or property
- Judgment debtor examination
- Garnishment

Collection Agencies

Section 304 of the *Municipal Act, 2001* and the City's By-Law 0138-2003, as amended, authorize the use of Collection Agencies for the recovery of debts and allows Collection Agency fees to be passed on to the debtor. To maximize collection efforts, multiple Collection Agencies are used; however, at no time will more than one Collection Agency attempt collection of the same debt at the same time.

Collection Agencies are only used for the collection of Fines with balances greater than \$55.00.

If the Collection Agencies are unsuccessful and the file is returned to the City, Collections staff will review the debt to determine if another avenue for collection is available. If no other collection alternative is available, the Fine will be deemed uncollectible and submitted for Write-off.

Extensions, Appeals and Re-openings

When the courts have granted an extension and appeal or a reopening, collection efforts will cease.

Uncollectible Due to Administrative Situations

The City will cease collection efforts if an administrative error has occurred. Documentation required to cease collection efforts in other circumstances is as follows:

- Deceased person - satisfactory proof of death which may include:
 - Funeral director or government issued death certificate
 - Notification from MTO/enforcement agency
- Declaration of Payment - affidavit by the Offender as to payment and payment details and Courthouse staff investigation of payment details provided

Post-judgement Interest

Post-judgement interest is only added on Fines that have a Certificate of Default filed with the Court. The interest accrues monthly on outstanding amounts based on the interest rate outlined quarterly by the Ministry of the Attorney General.

Administration Fees

Fees may be added to a Defaulted Fine, in accordance with the Fees and Charges By-law, as amended.

Write-off of Uncollectible Fines

The provincial government provides authority for municipalities to remove uncollectible Fines from active collection through a write-off process for administrative purposes only. All reasonable efforts to collect Defaulted Fines imposed under the POA must be made before any Write-off is considered.

Uncollectible Fines that are written off by the City do not absolve an Offender from the requirement to pay the Fine. Debts to the Crown only cease to be owed upon payment of the Fine or when the debtor is deceased.

Write-off Process

Collections Unit staff will complete an annual Write-off Report summarizing the cases that have been identified for Write-off. The reason and total value of each Fine for Write-off will be included.

Authorization to Write-off

The Director, Revenue & Materiel Management may authorize the monthly write-off of the unpaid balance of fines if the amount owing is \$55.00 or less.

The Commissioner, Corporate Services is authorized to write off all uncollectible Fines of \$25,000 and under on the recommendation of the Collections Unit, who will provide their recommendations for Write-off on a quarterly basis. Circumstances that may result in the recommendation to Write-off uncollectible Defaulted Fines include:

- The second placement Collection Agency returns the Fine as uncollectible or untraceable or advises that no assets remain to pursue further collection
- Litigation against an offender is unsuccessful
- Upon notification from the trustee in bankruptcy indicating that no dividends are available to cover a bankruptcy claim
- On the advice of Legal Services indicating the City's claim would not be successful
- The Offender is deceased (satisfactory proof of death is required)
- The offender has no fixed address and cannot be located

- All collection methods are deemed to be exhausted, or
- Further collection efforts exceed the value of the debt

Note: The Commissioner will report annually, through the Year End Report on Operating Financial Results, the total dollar amount of all individual Fines \$25,000 and under that are written off. The Commissioner will obtain Council approval to write off uncollectible Fines over \$25,000.

Removal from CAMS and ICON

Upon receipt of approval from Council, the Commissioner or the Director, Collections Unit staff will update CAMS to indicate the Fine has been written off. No data will be changed or deleted from CAMS until all required approvals have been granted. Court Administration staff will update ICON to indicate the Fine has been written off.

Reinstatement to Active Collection

Collection activities of accounts that have been written off can be resumed if required, as Fines imposed by POA Courts are debts owed to the Crown and therefore not subject to the *Limitations Act, 2002*. At any time the Manager, Revenue & Taxation or Manager, Court Administration can reinstate Fines to active collection.

Collections Unit staff and Court Administration staff will reinstate the Fine in CAMS and ICON as required.

Reporting

The Supervisor, Collections will prepare a monthly Defaulted Fines Aged Receivables Status report. The report will be reviewed by the following:

- Manager, Revenue & Taxation
- Director, Revenue & Materiel Management
- Manager, Court Administration, and
- Director, Legislative Services & Office of the City Clerk

Records Retention

Records will be retained for the period specified in the City of Mississauga's Records Retention By-law 0097-2017, as amended. Documentation should include:

- The Ticket and/or other relevant information
- Any payment information
- A record of the costs and fees included in any outstanding Fine amount
- A record of all collection activities undertaken, and

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- The reason for all Write-offs and any supporting documentation (e.g. death certificate)

Revision History

Reference	Description
GC-0048-2018 – 2018 02 21	
May 31, 2021	Scheduled review. No changes required.