

COMMITTEE OF THE WHOLE—JUNE 14, 2011

PARKING BY-LAW AMENDMENTS

Recommendation

The Commissioner of Legal and Administrative Services & City Solicitor recommends:

1. That Parking By-law 1-96, as amended, be further amended in accordance with the amendments in this Report.

Contribution to Sustainability

N/A

Economic Impact

There is no economic impact as a result of this report.

Communications Plan

N/A

Purpose

The purpose of this Report is a housekeeping amendment to the Parking By-law 1-96.

Background - Analysis and Options

The Administrative Penalty process for parking matters was adopted by Council in June 2009. In this process, Parking By-law offenders are issued a Penalty Notice rather than a Provincial Offences Notice. If the motor vehicle owner wishes to dispute the penalty notice, a hearing is held in front of a Hearings Officer appointed by the City rather than a trial in front of a Justice of the Peace in Provincial Offences Court. A By-law Enforcement Officer who witnesses a parking infraction serves the motor vehicle owner with the penalty notice. Service of the penalty notice is effectuated by affixing the penalty notice to the vehicle, or personal service of the penalty notice to either the motor vehicle owner or the person who has care and control of the vehicle. If the motor vehicle owner does not request a hearing of the penalty notice within 15 days, the penalty notice becomes final and binding. Although the motor vehicle owner will almost always receive the penalty notice, there remains a small possibility that they will not. In such a case, the penalty notice would become final and binding notwithstanding that they did not receive it. The Parking By-law does not explicitly provide any mechanism for redress in this case. Staff are recommending that the Parking By-law be amended to give the Director of Enforcement Services discretion to cancel or vary a penalty notice, or to reopen the case, in circumstances where it is established that the offender did not receive the penalty notice.

Motor vehicle owners sometimes evade service of a penalty notice by driving away before the By-law Enforcement Officer has an opportunity to serve it. Prior to the Administrative Penalty process, the rules for service of a parking infraction notice was strictly circumscribed by the *Provincial Offences Act*. However, the City has discretion under the *Municipal Act, 2001* to determine the methods of service for the penalty notice issued under the Administrative Penalty process. Accordingly, Staff are recommending that that the Parking By-law be amended to allow service of the penalty notice by regular mail.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Regional Implications

None

Conclusion

The Administrative Penalty process is a system of issuing administrative fines rather than a system of court based fine system. As such, it is a more fair, efficient, and local way to deal with parking matters. In rare occasions, a motor vehicle owner will not receive a penalty notice. Amending the Parking By-law to allow for the Director of Enforcement Services to reopen a case in these circumstances will promote greater fairness which will increase public confidence in the system. Amending the Parking By-law to allow for service of the penalty notice by mail will enable By-law Enforcement Officers to properly serve those individuals who attempt to evade service of the penalty notice.

Attachments

None

Report prepared by:

Christopher G. Bendick
Solicitor

Respectfully submitted,

Janice Atwood-Petkovski
Commissioner of Legal and Administrative Services & City Solicitor