



Proposal:
Make Licence Plate Denial Available
for all Defaulted *Provincial Offences Act* Fines

That licence plate denial be made available as a collection option for all defaulted *Provincial Offences Act* fines.

Summary:

- Recognizes that effective enforcement, which includes the collection of fines, is one component of a harmonious town and gown relationship.
- Enhances effective enforcement by implementing an additional collection tool which:
 - o is already used, and has been proven successful, for defaulted parking fines; and
 - o is relatively easy to expand for other defaulted fines.

Introduction

Enforcement of municipal by-laws is one component of the town and gown relationship. These by-laws can generally be characterized as governing nuisance behaviour and property maintenance and include noise, property standards and lot maintenance by-laws. While it is an objective of the Town and Gown Association of Ontario to diminish the enforcement component of the town and gown relationship by encouraging other means of fostering vibrant communities, by-laws currently play an important role in curbing the worst conflicts when they occur. As such, we continue to suggest improvements to enforcement.

For enforcement to work, every step must be effective, including sentencing. If sentencing is not effective, if there is little or no consequence upon conviction, then enforcement as a whole is ineffective. The result is that the primary goal of discouraging and, ideally, ending the activity (or lack of activity with respect to property maintenance) that leads to convictions is not achieved.

Fines

A fine, intended to act as both a specific and general deterrent, is, as a rule, the sentence for a conviction under the *Provincial Offences Act*. To act as a deterrent, fines must be both collectable and collected. Municipalities have worked steadily with

respect to the latter, improving their collection of defaulted fines, for example, by establishing standardized protocols. They have also worked to encourage the Province of Ontario to expand the tools available for collection, making defaulted fines more collectable.¹ The Province has responded, most recently in Bill 212 which was passed on December 15, 2009 and which amended the *Municipal Act, 2001* to permit all defaulted fines to be added to the tax roll and collected in the same manner as taxes when the owner is responsible for the fine.²

While the Bill 212 amendment is welcome, there remains room for further expansion of the tools available for collection. The easiest to implement, in our view, would be what is commonly referred to as licence plate denial. It was given as a possible option, together with the Bill 212 amendment and the suspension of drivers' licences, in the *Provincial Offences Act Streamlining Review Consultation Paper*. Like the other two options (defaulted fines for business licensing offences can be added to the tax roll and defaulted fines for certain vehicle related offences can result in a driver's licence suspension), licence plate denial would be an extension of an existing tool: it is already used for Part II convictions for parking offences and, as acknowledged in the Consultation Paper, is "highly successful".

The Consultation Paper raised hardship concerns, similar to those with respect to the suspension of drivers' licences, in expanding the application of licence plate denial from parking offences to all offences. As hardship concerns have not prevented licence plate denial from being routinely used for a number of years to collect defaulted fines for what are arguably the least serious of *Provincial Offence Act* offences, parking offences, such concerns would not appear to be a barrier to expansion of the tool to more serious offences.

The infrastructure for licence plate denial already exists: municipalities submit the information with respect to defaulted parking fines to the Province; the Province requires payment of any defaulted fine plus a processing surcharge before licence plate renewal; and, finally, the Province forwards the fine payments to the municipalities. This infrastructure would require some enhancement, as the licence plate number, which appears on all parking tickets, would no longer be on all charging documents. Name searches, however, are not an uncommon step in various types of enforcement, for example when enforcing writs of execution, and should be relatively easy to implement including any mechanism necessary for determining responsibility when names are the same or similar.

¹ Municipalities have been motivated to improve collection to increase revenues, as the percentage of fines which are defaulted remains high. However, the primary goal, as already stated, is to discourage and, ideally, end the activity that leads to convictions.

² *Municipal Act, 2001*:

Unpaid fines

441.1 Upon the request of a municipality that has entered into a transfer agreement under Part X of the *Provincial Offences Act*, the treasurer of a local municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

Other options, in addition to licence plate denial, should be considered. While the hardship concerns carry more weight with respect to drivers' licence suspensions, this is an option that other jurisdictions have implemented.³ Garnishing government payments is a further option, implemented by Saskatchewan⁴ and Alberta⁵

Alternatives to Fines

Some tools, as an alternative or in addition to fines, are already available. For example, prohibition orders are used with good results, although it would be useful to specify that they may be implemented after a first conviction and are not limited to a second or subsequent conviction.

There are also new tools that look promising, several of which are discussed by the Law Commission of Ontario in its Consultation Paper on the modernization of the *Provincial Offences Act*.⁶ These include adding sentencing principles to the *Provincial Offences Act* and new sentencing options. Without exploring them in detail, it appears that the main difficulty with the Law Commission of Ontario's proposals is they have been developed with the most serious of offences under provincial statutes and regulations in mind, which can result in very large fines and even jail time. It is not unreasonable that considerable resources, when it comes to sentencing, could be devoted to such offences, similar in scale to those devoted to criminal offences. From our point of view, it is a matter of adapting these proposals to municipal by-law offences, where considerable resources are not and will not be available. Could relatively simple sentencing principles be added to the *Provincial Offences Act*, providing Justices of the Peace with improved guidance? Could the payment of security to ensure that there is money to pay future fines be required for a conviction, for example, under a noise by-law when there was evidence that enforcement officers had to return to the same

³ As the Consultation Paper noted, driver's licence suspension is available in Manitoba, Nova Scotia, Newfoundland and Labrador and England for fines imposed in relation to offences unrelated to road safety. An October 2009 report indicated that Queensland, Australia would "strip" drivers of their right to drive until defaulted fines, "for infringements as minor as parking tickets, littering fines and penalties of unleashed or unregistered dogs", had been paid.

⁴ The Province of Saskatchewan made the following announcement in February, 2008:

...
Starting this tax season, the Fine Collection branch of the Ministry of Justice and Attorney General will partner with the Canada Revenue Agency to garnish federal government income tax and GST payments from people who have not paid their fines. It applies to all fines laid under provincial statutes that are payable to the province.

...
"One of my priorities is to ensure we do the best possible job collecting money owed to this province," Justice Minister Don Morgan said. "We will continue our work in this area to make it clear there are serious consequences for people who do not pay their fines."

⁵ The *London Free Press* reported in December, 2009 that Alberta was collecting defaulted fines by garnishing tax returns and GST rebates.

⁶ The Law Commission of Ontario is accepting submissions on the modernization of the *Provincial Offences Act* until February 1, 2010.

address more than once in a short period of time? Could there be explicit authority for conditional sentences and/or probation orders that allowed for a variety of conditions, suitable to the municipal by-law offence, to be imposed?

Conclusion

The Town and Gown Association of Ontario urges the immediate adoption of licence plate denial for defaulted fines for all *Provincial Offences Act* offences as soon as possible. In addition, it urges the adoption of additional tools, with respect to defaulted fines in particular and sentencing more generally, in future. The Town and Gown Association recognizes the ongoing work of the various stakeholders, as demonstrated, for example, by the *Provincial Offences Act* Streamlining Review Consultation Paper, the Bill 212 Amendment and the Law Commission of Ontario Consultation Paper. In light of this work, we make two cautionary suggestions: first, that despite progress, the work is not yet complete; and, secondly, that the broad range of *Provincial Offences Act* offences, from failing to pay for parking to causing an environmental catastrophe, be kept in mind as the work is being done. With respect to the latter, many of the less serious offences, municipal by-law offences, are crucial to the harmonious functioning of Ontario's communities and should not be overlooked as changes are considered and implemented.