

To: Metrolinx Board of Directors

From: Martin Gallagher
Chief Operating Officer, GO & UP, & Chief Safety Officer

Date: September 8, 2022

Re: **New graduated fee structure for fare related offences**

Executive Summary

The current method for customer payment for travel on GO Transit and UP Express services is based on an honour system, enforced by proof-of-payment fare inspections carried out by Revenue Protection Officers and Special Constables. The system is barrier free for passengers and while the vast majority of transit customers pay their fares, Metrolinx staff do encounter a small percentage of passengers without a valid fare for travel.

Currently, passengers found travelling without a valid ticket may be subject to a fine of \$100.00. Revenue Protection Officers and Special Constables issuing Notices of Violation are unable to vary the fee regardless of the circumstances leading to the offence. As an alternative to a fine, officers may also issue educational notices for first time offenders and minor non-compliances. This approach, however, does not allow for the recovery of lost revenue as there is currently no process for Revenue Protection Officers to sell tickets to customers or to issue penalty fares.

In order to better protect and retain fare revenue and ensure the equitable treatment of customers while promoting compliance with the proof of payment system, staff are seeking an amendment to Metrolinx By-law No. 7 that would give Revenue Protection Officers and Special Constables the ability to issue escalating fines corresponding to the level of offence. Under the new, graduated structure, first time offenders will be issued a \$35.00 penalty fare. For second offences, a \$50.00 penalty fare will apply, while a \$100.00 fine will be issued for third offences. Passengers with four or more offences will be automatically served a Provincial Offence Notice with a set fine of \$200.00. This new approach to managing fare-related offences would enable Metrolinx to recover lost revenue while ensuring a fair, consistent approach for fare evaders, while improving the perception of fairness among compliant customers.

This proposed graduated fee structure is being developed through an anti-racism-focused lens to prevent and remove any discrimination or bias in the design, application, training, community outreach and accountability mechanisms of the program and ensure the fair and equitable treatment of all passengers.

Recommendation

RESOLVED:

THAT, as further described in the Chief Safety Officer's report dated September 8, 2022 (the "Report"), the Board approves amendments to By-law No. 7 to establish an escalated fee structure for fare related offences;

AND THAT amended By-law No. 7 attached to the Report as Appendix A is enacted, effective as of October 10, 2022;

AND THAT the current By-law No. 7 be repealed and replaced with the revised By-law No. 7 attached as Appendix A to this Report, effective as of October 10, 2022;

AND THAT the Board Chair and Corporate Secretary are authorized to sign the By-law.

Background

To ensure compliance with Metrolinx's proof of payment system, Revenue Protection Officers and Special Constable carry out regular inspections of GO and UP services. Officers are authorized to issue a Notice of Violation with an attached fine of \$100.00 for individuals travelling without a valid fare. As an alternative to a \$100.00 fine, officers may also issue educational notices for minor non-compliances and advise passengers to purchase an electronic ticket ("e-ticket") using a QR code. Where an e-ticket is not a viable option for the passenger, officers will request that the customer purchase a ticket upon completion of their trip. Officers are unable to track or confirm that those fares have been purchased through either method.

New Graduated Fee Structure for Fare Related Offences

Staff are therefore seeking an amendment to By-law No. 7 to give Revenue Protection Officers and Special Constables the ability to issue escalating fee amounts corresponding to the level of offence. Under the new structure, first time offenders will be issued a \$35.00 penalty fare. For second offences, a \$50.00 penalty fare will apply, while a \$100.00 fee will be issued for third offences. Passengers with four or more offences will be automatically served a Provincial Offence Notice with a fine of \$200.00, as set out in the Schedule of Offences under Part I of the *Provincial Offences Act*. The next step in the escalation process will be for an officer to issue a summons which commands the individual's attendance in court. If convicted, the individual could be subject to a fine of up to \$5,000. With this change, educational notices would no longer be issued however passengers would still have the ability to dispute fines through Metrolinx's dispute resolution program.

Table 1. New Graduated Fee Structure for Failure to Show Valid Ticket

Item	Description of contravention	Section of By-law No. 2 that has been designated	Amount of Fee	
1	Fail to show valid ticket when directed	Section 2.19	First offence:	\$35.00
			Second offence:	\$50.00
			Third offence:	\$100.00
			Four or more offences:	Provincial Offence Notice (PON) or summons

This tiered approach is not intended to be punitive but rather would serve as a general and escalating deterrent to change or alter customer behaviour as it relates to fare payment responsibility. The first level of the tiered approach is a nominal value that aligns closer to fare recovery as opposed to the other two levels where the fee amount is higher, acting as a greater deterrent to those customers who continue to commit fare-related offences. This provides increased opportunities for officers to educate passengers on rules around fare payment and methods of purchasing their fare, while still recovering revenue. Such a structure would also reduce the likelihood of negative interactions for officers with passengers who wish to challenge the value of the administrative fee attached to the Notice of Violation being issued.

Overall, the new graduated fee structure will provide a more effective and expeditious method for issuing and reviewing administrative fees for fare related offences. It will help to reduce administrative delays and improve customer service, all while maintaining procedural fairness and equity in the management of the administrative fees program.

Implementation

Metrolinx is required to give 30-days public notice of any change to an administrative fee specified in the administrative fee by-law, before the change can come into full force and effect [O. Reg 282/10, s. 12 (1)]. Notice of amendments made to Schedule "A" of By-law No. 7, will be posted on the GO Transit and UP Express websites on the date upon which they are approved by the Board.

A comprehensive marketing and communications plan is also being developed to ensure passengers and other affected stakeholders are informed of the new escalated fee structure for fare related offences. Technological infrastructure and enforcement documentation will be updated accordingly, and Metrolinx staff will receive appropriate training to ensure operational readiness once the amended by-law comes into full force and effect, on October 10, 2022. Specifically, staff will receive regular, ongoing human rights-focused training, developed in consultation with affected groups, on racial profiling, unconscious biases, and related topics. This is to ensure all passengers are treated in a fair and equitable manner under the new graduated fee structure.

Conclusion

Metrolinx takes its duties seriously as they relate to the safety, efficiency and protection of transportation corridors under the *Metrolinx Act, 2006*, and is committed to continuously improving service delivery and enhancing customer satisfaction. The proposed escalated fee structure will enable our organization to address fare violations in a more expeditious and cost-effective manner, while also protecting the integrity of our fare system. As we welcome customers back to our services, this new approach will also provide officers with greater opportunities to educate passengers on the various ways to purchase a fare as well as the consequences for failing to do so.

Respectfully submitted,

Martin Gallagher
Chief Operating Officer, GO & UP, & Chief Safety Officer

Attachment: Appendix A - By-law No. 7

BY-LAW NO. 7

METROLINX (the “Corporation”)

A by-law establishing an alternative dispute resolution program for contravention of certain parking and fare by-laws

BE IT ENACTED as a by-law of the Corporation as follows:

1. DEFINITIONS

- 1.1 In this by-law and in all other by-laws of the Corporation, unless the context otherwise requires:
- (a) Words defined in the *Metrolinx Act, 2006* shall have the meaning assigned to them for purposes of the *Metrolinx Act, 2006*;
 - (b) “Hearing Officer” means a person appointed by the Corporation to conduct hearings under this by-law;
 - (c) “Officer” means an officer designated by the Corporation for the purposes of enforcing the by-laws of the Corporation.
 - (d) “Person” means the person who is named in the administrative fee notice, the registered owner of a motor vehicle in the case of a parking contravention, or any person acting as an agent for that person.
 - (e) “Screening Officer” means an employee of the Corporation who is appointed for the purposes of screening administrative fees under this by-law.

2. DESIGNATED BY-LAWS TO WHICH THE SYSTEM OF ADMINISTRATIVE FEES APPLIES

The following sections of Metrolinx By-law No. 2 are hereby designated for the purposes of a system of administrative fees:

Designated sections

- 2.1 The following offences under Metrolinx By-law No. 2 for contraventions in respect of the payment of fares by passengers or respecting the stopping, standing or parking of vehicles are hereby designated as contraventions to which the system of administrative fees applies:
- (a) 2.19 – fail to show a valid ticket when directed
 - (b) 3.17(a) – park vehicle contrary to parking control sign
 - (c) 4.2 – park vehicle not incidental to use of the transit system
 - (d) 4.3 – park vehicle over 48 hours
 - (e) 4.5 – park vehicle excessive weight
 - (f) 4.6 – park, stand or stop vehicle outside designated area
 - (g) 4.8 – park vehicle occupy more than one space

Notice, Reviews and Hearings

- Notice*
- 2.2 Any notice pursuant to this By-law may be given in any of the following ways and is effective:
- On the date on which a copy is delivered to the person to whom it is addressed;
- On the seventh day after a copy is sent by regular mail to the person's last known address;
- Upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
- Upon the sending of a copy by e-mail transmission to the person's last known e-mail address.
- Notice of violation*
- 2.3 Any notice alleging a contravention of a provision of a designated by-law shall clearly set out the date and time at which the contravention occurred and any other information necessary for a thorough understanding of the circumstances of the alleged contravention. The notice shall include but not be limited to:
- (a) Name, date of birth and address of the person who committed the contravention or registered owner information in the case of a vehicle;
 - (b) The nature of the allegation;
 - (c) The amount of the administrative fee required to be paid including, any information relating to payment options and the consequences of failure to pay;
 - (d) The process and timelines for requesting a review before a Screening Officer regarding the imposition of the fee.
- Request for review by a Screening Officer*
- 2.4 Any person who receives a fee notice under this By-law may request a review of the administrative fee by a Screening Officer in accordance with this section:
- (a) The person's right to request a review expires on the 15th day after the notice of violation is given to the person;
 - (b) The person's right to request that a Screening Officer extend the time to request a review expires on the 15th day after a notice of non-payment is given to the person at which time the administrative fee shall be deemed to be affirmed.
 - (c) The Screening Officer may extend the time to request a review where the person demonstrates to the screening officer extenuating circumstances that reasonably warrants the extension of time.
- Screening Officer Powers*
- 2.5 On a review of an administrative fee, the Screening Officer may cancel, affirm, vary or extend the time to pay the fee based on the following grounds:
- (a) Where the person establishes, on a balance of probabilities, that the person did not commit the act described in the violation notice; or
 - (b) The cancellation, reduction or extension of the amount or time to pay is necessary to relieve undue hardship; or
 - (c) The cancellation, reduction or extension of the amount of the fee or the time in which to pay is consistent with ensuring the integrity of the proof of payment fare

system or compliance with parking regulations.

- Procedures for review* 2.6 The Screening Officer shall conduct reviews in an expeditious and cost effective manner while ensuring procedural fairness and equity. Reviews by a Screening Officer may be conducted in person, in writing, or electronically.
- Notice of Review Meeting* 2.7 In the event that a date and time is required to be established to conduct a review, the person shall be given at least 7 days' notice of the date, time and place of the scheduled meeting with a Screening Officer.
- Decisions in writing* 2.8 Decisions of a review by a Screening Officer shall be provided in writing.
- Hearings* 2.9 A person who receives notice of the Screening Officer's decision may request a review of the Screening Officer's decision by a Hearing Officer within 15 days of receiving notification of the Screening Officer's decision:
- (a) The Hearing Officer after considering all submissions may amend, vary, cancel, reduce, or extend the time for payment of the administrative fee on the following grounds:
 - (i) Where the person establishes, on a balance of probabilities, that the person did not commit the act described in the violation notice; or
 - (ii) The cancellation, reduction or extension of the amount or time to pay is necessary to relieve undue hardship; or
 - (iii) The amendment, variation, cancellation, reduction of the amount or the time to pay is consistent with ensuring the integrity of the proof of payment fare system or compliance with parking regulations.
- Extension of time* 2.10 A Hearing Officer has the authority to extend time limits prescribed by this by-law whether or not the prescribed time period has expired if:
- (a) The person requesting the extension demonstrates to the Hearing Officer extenuating circumstances that warrant the extension of time; or
 - (b) In the opinion of the Hearing Officer the extension of time is necessary to ensure procedural fairness.
- Notice of hearing* 2.11 A person shall be given at least seven (7) days' notice of the date, time and place of the hearing before a Hearing Officer.
- Representatives* 2.12 Before making a decision under section 2.9 or 2.10 the Hearing Officer shall conduct a hearing where both the person and the Corporation are given an opportunity to be heard.
- Procedures for hearings* 2.13 The Hearing Officer shall conduct hearing in an expeditious and cost effective manner while ensuring procedural fairness and equity. Hearings by a Hearing Officer may be conducted in person, in writing, or electronically.
- Decisions in writing* 2.14 All decisions of a Hearing Officer shall be provided in writing.
- 2.15 All hearings conducted by a Hearing Officer shall be in accordance with the *Statutory*

Powers Procedures Act, R.S.O. 1990, c. S. 22, as amended.

- Decision final* 2.16 Any decision of a Hearing Officer is final.
- Refund* 2.17 Where a person has paid an administrative fee that is subsequently cancelled or reduced, the Corporation shall refund the amount cancelled or reduced.
- Failure to attend* 2.18 Where a person fails to attend a meeting with a Screening Officer or a hearing in front of a Hearing Officer, the administrative fee shall be affirmed.
- 2.19 Where a person fails to a hearing they shall be required to pay additional fees as prescribed in Schedule "A".
- Debt to the Corporation* 2.20 An administrative fee becomes a debt due to the Corporation of each person to whom the administrative fee notice was given when:
- (a) the amount of the fee is reduced, varied or for which time for payment has been extended by a Screening Officer or Hearing Officer; or
 - (b) the time in which to pay the administrative fee has expired; or
 - (c) the person fails to attend at a scheduled meeting with a Screening Officer; or
 - (d) the person fails to attend at a scheduled hearing with a Hearing Officer.
- Additional Fees* 2.21 The Corporation reserves the right to add additional fees as permitted by the *Metrolinx Act, 2006* or any regulation made under the Act.
- Officer not to receive payment* 2.22 An officer issuing a notice of violation shall not receive payment for any administrative fee.

Schedule of Administrative Fees for Contraventions

- List of fee amounts* 2.23 The amount of fee to be paid for each contravention is as prescribed in Schedule "A" appended to this by-law.
- Additional Fees* 2.24 The amount for any additional fees to be collected and the purpose for which they are added is as prescribed in Schedule "A" appended to this by-law.
- Effective Date* 2.25 This By-law becomes effective once the Administrative Fees Regulation made under the *Metrolinx Act, 2006* comes into effect.
- 30 day Notice* 2.26 The Corporation shall give public notice of any change to the amount(s) of an administrative fee at least 30 days before implementation of the change of such fee.

3. APPOINTMENT OF HEARING OFFICERS

- Customer Service Advisory Committee* 3.1 The Vice President, Customer Service shall recommend eligible candidates for appointment to the Customer Service Advisory Committee, which recommendation shall give preference to eligible candidates:
- (a) with knowledge of and experience in administrative law; and

(b) of good character.

- | | | |
|-----------------------------------|-----|--|
| <i>Appointment, etc.</i> | 3.2 | The Customer Service Advisory Committee will interview the recommended eligible candidates, evaluate candidates based on pre-determined criteria including compliance with conflict of interest guidelines, and recommend successful candidates for Metrolinx's appointment or renewal. |
| <i>Number of Hearing Officers</i> | 3.3 | The Customer Service Advisory Committee shall recommend the appointment of that number of Hearing Officers as required by the Corporation from time to time. |
| <i>Term</i> | 3.4 | Each Hearing Officer shall serve at the pleasure of the Corporation and each appointment shall be effective until terminated in accordance with the terms of an agreement between the Hearing Officer and the Corporation, or in the absence of such provision, on thirty days' notice by the Corporation. |

The forgoing by-law is hereby consented to and passed as a by-law of the Corporation by the Members of the Board of Directors the ~~3rd~~8th day of ~~March 2015~~September 2022 pursuant to Subsection 21(1) of the *Metrolinx Act, 2006*, effective the ~~5th~~10th day of ~~November, 2015, being the date of approval of the related *Provincial Offences Act* offences and set fine amounts as ordered by the Chief Justice~~October, 2022.

~~J. Robert S. Prichard,~~Donald Wright,
Chair

~~Mary Martin,~~Alba Sandre Taylor,
Secretary

c/s

Schedule "A" to By-law No. 7

Metrolinx

Administrative Fees

Item	Description of contravention	Section of By-law No. 2 that has been designated	Amount of Fee
1.	Fail to show valid ticket when directed	Section 2.19	First Offence: \$100.00 <u>35.00</u> <u>Second Offence: \$50.00</u> <u>Third Offence: \$100.00</u> <u>Four or more offences: Provincial Offence Notice (PON) or summons</u>
2. <u>2.</u>	Park vehicle not incidental to use of transit system	Section 4.2	\$25.00
3. <u>3.</u>	Park vehicle over 48 hours	Section 4.3	\$25.00
4. <u>4.</u>	Park vehicle — excessive weight	Section 4.5	\$25.00
5. <u>5.</u>	Park vehicle outside designated area	Section 4.6	\$25.00
6. <u>6.</u>	Stand vehicle outside designated area	Section 4.6	\$25.00
7. <u>7.</u>	Stop vehicle outside designated area	Section 4.6	\$25.00
8. <u>8.</u>	Park vehicle occupy more than one space	Section 4.8	\$25.00
9. <u>9.</u>	Park vehicle contrary to parking control sign	Section 3.17(a)	\$25.00
10. <u>10.</u>	Fail to attend Hearing Officer appointment	Additional Fee added administratively	\$30.00
11. <u>11.</u>	Dishonoured Payment	Additional Fee added administratively	\$30.00
12. <u>12.</u>	A fee in respect of collection costs if the Corporation uses a collection agency to collect Administrative Fees and Additional Fees	Additional Fee added administratively	\$20.00