



POLICY MANUAL

POLICY NUMBER: CORPORATE- XX

SUBJECT: Provincial Offences Act Write-Off Policy

**POLICY STATEMENT:
(Purpose/Objective)**

The Corporation of the City of Brantford is committed to promoting consistent, transparent and equitable processes in the writing off of uncollectable POA accounts receivable, and to ensuring responsible financial reporting that accurately reflects collectible POA revenue.

RELATED POLICY PROCEDURES/GUIDELINES:

Article 1 - GENERAL

1.1. **Definitions:**

“**City**” means The Corporation of the City of Brantford;

“**Court Manager**” means the Manager of Court Administration for the City or, where the Court Manager is not available, the Director of Legal & Real Estate Services;

“**Crown**” means Her Majesty the Queen as represented by the Ministry of the Attorney General for the Province of Ontario;

“**Deceased Person**” or “**DP**” means an outstanding POA accounts receivable where confirmation of the deceased person has been confirmed;

“**ICON**” means the Integrated Courts Offence Network, the provincially mandated database that POA offices are required to use as per the transfer agreement between

the Province of Ontario and the City of Brantford;

“**Limitations Act**” means the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B, as amended;

“**MAG**” means the Ministry of the Attorney General for the Province of Ontario;

“**MOU**” means the Memorandum of Understanding between The Corporation of the City of Brantford and MAG governing the provision of provincial offences court services to Brantford and area;

“**POA**” means the *Provincial Offences Act*, R.S.O. 1990 c. P.33, as amended;

“**Uncollectible**” means a financial obligation that has been deemed to have little or no chance of being collected;

“**Underpayments**” or “**UP**” means minor underpayments, being those with less than twenty-five dollars (\$25.00) outstanding) of POA accounts receivable marked for write-off; and

“**Write-off**” means the removal of accounts receivables from City of Brantford financial statements, the ICON system, and the cessation of collection activity.

1.2. **Purpose** The purpose of this policy is to:

- a) abide by the Provincial Offences Act Write-Off Directive and Operating Guide, provided by MAG and dated June 13, 2007;
- b) promote consistent, transparent and equitable processes in the writing off of uncollectible accounts receivable by the City;
- c) provide an effective and proactive approach to POA receivables that have been deemed uncollectible; and
- d) to ensure that City staff demonstrate due diligence with respect to the collection and write-off of uncollectible POA debts, and make reasonable efforts to minimize the amount of accounts recommended for write-off on an annual basis.

1.3. **Application (Inclusion)** This policy applies to all accounts receivable of the Provincial Offences Administration division of the Legal & Real Estate Services Department for the City.

1.4. **Application (Exclusion)** This policy shall not apply to extinguish any legal obligation of convicted offenders or debtors with respect to amounts owing pursuant to the POA. For clarification, accounts receivable may be written off for accounting purposes; however, any write-off provided pursuant to this policy does not absolve the convicted offender or debtor from the requirement to pay the amounts so written off. All fines imposed through POA courts are debts owed to the Crown and are not subject to the *Limitations Act*; therefore, collection activities for written off accounts can be resumed when conditions change.

1.5. **Funds Subsequently Collected** Where the City has written-off an account receivable and any part of the written off account is subsequently paid, the

requirements of the POA Transfer Agreement and the POA regarding remittance of funds to the Province of Ontario shall continue to apply.

Article 2 - CONDITIONS/CRITERIA FOR DEEMING AMOUNTS UNCOLLECTABLE

- 2.1. **Semi-Annual Review** The Court Manager or delegate shall semi-annually review all accounts receivable in order to identify potential write-offs, and shall annually review accounts receivable in order to identify uncollectable accounts eligible for write-off.
- 2.2. **Reasonable Efforts** The Court Manager must ensure that all reasonable efforts have been exhausted to collect unpaid, defaulted fines prior to recommending any amounts for write-off. Pursuant to the MOU, the Court Manager shall ensure and that an equal effort to collect all unpaid fines regardless as to whether they are retained by the City or paid to a third party.
- 2.3. **Administration of Justice** Subject to the rights and safeguards set out in the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, write-off decisions made pursuant to this policy must be transparent and justifiable, and must not place the administration of justice into disrepute.
- 2.4. **Remittance to Province** Where all or any portion of a previously written off account receivable is subsequently paid, the City must remit to the Province of Ontario, in a timely manner, all amounts received in respect of fines, surcharges and fees that are payable to Ontario pursuant to section 165(5) of the POA.
- 2.5. **Purging and Re-entering Cases** Where the City of Brantford has written off POA accounts receivable, and where the related cases have been purged from ICON, and any portion of those accounts receivable are subsequently paid, the cases related to the payment received must be reentered into ICON and the payment must be recorded as revenue with supporting documents and distributed in accordance with the MOU.
- 2.6. **Reporting – MAG** On an annual basis, the City of Brantford must provide MAG's POA Unit with information regarding the total value of all fines deemed "uncollectible" and written-off during the previous municipal fiscal year as part of the annual performance and progress report.
- 2.7. **Threshold for Write-Off** With the exception of minor underpayments (UP), deceased persons (DP), and cases where collection options are not available due to a corporation being in default and providing satisfactory proof of dissolution, inactive status, bankruptcy or Ministry notification that the corporation is inactive or dissolved, POA accounts receivable marked for write-off must have been in default for a minimum of seven (7) years.
- 2.8. **Required Collection Activity** The following collection activities must be applied progressively to outstanding accounts (though not necessarily in the order identified below) before writing off amounts pursuant to this policy. Once these activities have

been completed, the Court Manager will be deemed to have adequate proof of the eligibility for write-off of the applicable account receivable.

- a) Timely creation and distribution of notices and communications relating to the outstanding account.
- b) Progressively strong delinquency notices, including letters, have been circulated to the last known address or contact information on file with the POA court.
- c) Consideration of an extended payment plan has been given and documented.
- d) All available administrative sanctions have been applied.
- e) Specialized collection assistance has been used.
- f) Demonstrated use of appropriate Civil Enforcement mechanisms, where deemed cost effective by the Court Manager.

2.9. **Minimum Documentation** Documentation in support of a write-off recommendation must at a minimum include the following:

- a) Copy of original Certificate of Offence or Part III Information.
- b) Documentation as to all collection activities undertaken.
- c) Adequate records and reason for the recommended write-off.
- d) Record of any additional costs or fees included in the outstanding amount.

Article 3 - WRITE-OFF PROCEDURE

3.1. **Request** The court administration for the City will obtain the amount of underpayments ("UP") and the amount of deceased persons ("DP") by accessing the ICON report RICO 2218 – Monthly Audit Write-off Report, to determine the total amount to be written-off.

3.2. **DP Totals** The ICON purge will pick up the deceased persons from the "DP" code which appears on the Monthly audit Write-Off Report (RICO 2218). The DP totals will automatically be purged and numbers will be included in the Final Purge Report in October.

3.3. **MAG Electronic Filing** All write-offs are to be completed in ICON each year by way of an electronic file that is automatically sent from MAG to be reviewed and verified by court administration and sent to the Court Manager for final approval.

3.4. **Report Review/Due Diligence** Upon issuance of the preliminary purge report, the court administration will review the ICON purge numbers with the City write-off numbers. Any discrepancies will be investigated by the Court Manager and rectified.

3.5. **Disputed Reports** Any dispute pertaining to the purge report will be forwarded to MAG by the end of July each year.

3.6. **Purge and Final Reporting** Undisputed files will be purged and a final write-off report will be produced by MAG in October of each year, or as soon thereafter as MAG shall produce same.

Article 4 - AUTHORITY

- 4.1. **Authority** The decision to write-off accounts receivable that have been deemed uncollectible is a local decision, made by municipal partners of MAG administrating the POA courts, and is subject to the Write-Off Directive and Operating Guideline outlined by MAG, June 13, 2007, the MOU, and the Local Side Agreement between the City and MAG.
- 4.2. **Delegation of Authority** Subject to the conditions and criteria set out in this policy, the Court Manager for the City is hereby delegated authority to make determinations with respect to whether accounts receivable shall or shall not be deemed to be uncollectable pursuant to this policy.
- 4.3. **Discretionary** The authority granted in sections 4.1 and 4.2 is discretionary. Nothing in this policy shall be construed so as to require the Court Manager to write-off any amounts owing pursuant to the POA or otherwise.

Date of Enactment: January 28, 2020	Related By-law Number/Staff Report Number: 2020-33
Review and Amendment Dates:	Department Responsible for Review: Legal & Real Estate Services – Provincial Offences Administration
Date of Next Review: 2025	Applicable Legislation/Legislative Authority: <i>Provincial Offences Act, Municipal Act, 2001,</i> MAG Provincial Offences Act Write-Off Directive and Operating Guideline, June 13, 2007