

Request for Decision

Budget Options - Compliance and Enforcement User Fees

Presented To: Finance and Administration Committee

Presented: Tuesday, Dec 08, 2015

Report Date Wednesday, Nov 25, 2015

Type: Managers' Reports

Recommendation

THAT the City of Greater Sudbury directs staff to prepare a budget option for the establishment of the implementation of User Fees to recover all or parts of the costs associated with the following activities:

1. By-law Officer attendance at inspections when an order is in default and/or remedial work is required;
2. Appeal Hearings;
3. Towing vehicles from private property; and
4. Late business license renewals all as described in the report from the Executive Director, Administrative Services/City Clerk entitled "User Fees for Enforcement Activities";

AND THAT if the budget option is approved, staff be directed to prepare the necessary amendments to the Miscellaneous User Fee By-law for implementation in 2016.

Finance Implications

If approved, a budget option for approximately \$33,000 of revenue from new compliance and enforcement user fees will be prepared for the consideration of the Finance and Administration Committee during 2016 budget deliberations.

Executive Summary

This report describes enforcement activities which benefit individuals, relate to non-compliance with an order, or to a matter that is private in nature. As these types of enforcement activities are very specific to the requestor of the service, the municipality has the right, under legislation, to provide these services on a fee for service basis so as to recover the costs to the municipality of the service.

Background

Signed By

Report Prepared By

Darlene Barker
Coordinator of Compliance and Enforcement
Digitally Signed Nov 25, 15

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative Services/City Clerk
Digitally Signed Nov 25, 15

Recommended by the C.A.O.

Kevin Fowke
Acting Chief Administrative Officer
Digitally Signed Nov 25, 15

Ontario's *Municipal Act* (MA) authorizes municipalities to charge for services or activities provided or done by or on behalf of the municipality. The costs included in a fee or charge may include costs incurred by the municipality related to administration and enforcement. Further the MA provides that the fees imposed are a debt to the municipality and may be collected in a like manner as municipal taxes, provided that it is the owners of the property who are responsible for paying the fees and charges. Currently the City does not impose any costs or charges for enforcement and administration of its regulatory by-laws, except those pursuant to the sign by-law.

At issue is the difference between those enforcement activities which are for the benefit of the broader community and those enforcement activities which benefit an individual, relate to non-compliance with an order or to a matter that is private in nature.

A municipal survey was conducted and several municipalities were consulted. Most have fees for enforcement services, although the types and costs of these services vary considerably. A copy of the results of the survey is attached to this report, named "User Fees for By-law Enforcement Activities – Municipal Survey". Currently, the City of Greater Sudbury does not collect fees for these services, relying on the tax levy to cover all inspection costs.

The fees for services recommended in this report have been established through an analysis of the actual costs of service delivery which was calculated from the cost centre reports of the department's annual expenditures in 2014 with both salary costs as well as administrative and operating costs such as vehicles and clerical support included. Based on these calculations, a rate of \$60 per hour reflects the actual costs of service delivery by a By-Law Enforcement Officer.

Accordingly, an inspection fee of \$60 per hour or part thereof is recommended for those activities that are as a result of non-compliance with the City by-laws, which provide for cost recovery from the person causing the additional service, or are of a private nature with no direct benefit to the public. This proposed fee is well aligned with the results of the survey conducted of other municipalities which indicates that Thunder Bay, Barrie, London, Brampton and Toronto all have user fees established for by-law officer inspection costs, ranging from \$50 to \$103 per hour.

If Council establishes fees for all of the services provided in this report as described, a projection of annual increased revenue based on activity levels in 2014 and 2015 is estimated at approximately, \$33,000. Further, there will be added benefit of having these fees in that they will all serve as a tool for staff in Compliance and Enforcement to encourage and motivate property owners to comply with, or find alternative solutions to, their outstanding property matters.

By-law Officer Inspections when Order/Notice is in Default and/or Attendance is Required During Remedial Work

Data from Active Citizen Request (ACR) indicate that there were approximately 2569 requests for enforcement in 2014, not including those recorded for parking enforcement. Most requests are first confirmed by inspection and if a violation exists, a Notice or Order may be issued which contains a date for compliance. The officer will re-inspect the property on or after the date for compliance to ensure the Notice or Order has been complied with. In some instances attendance may also be required to supervise a contractor who is doing remedial work under a Notice or Order. It is recommended that inspection fees only for those additional inspections that are required when a property continues to be in default or when an officer is required to supervise a contractor, be collected from the owner(s) of the property. These additional inspections are a cost attributed directly to the non-compliance activity of the person(s) who the Notice or Order was issued to. Implementing this fee will allow the City to recover the costs of repeated follow-up inspections which would be unnecessary if the order was complied with.

In 2014 from the 2569 requests received there were 154 additional inspections for cases where compliance was found to be incomplete during a re-inspection of the property. If owners were responsible for covering costs of additional inspections at \$60 per hour, user fees in the approximate amount of \$9,000 may be generated.

Appeal Hearings for Property Standards Orders, Grounds and Yards Notices, Licensing Decisions and Vicious Dog Notices

It is quite an undertaking for the City to provide an appeal process to notices, orders and decisions made pursuant to the City's by-laws. Article 44 of the CGS Procedure By-law describes the composition and mandate of the Hearing Committee, which is comprised of 5 members of council and is convened when necessary. There is considerable staff time and effort associated with each Hearing, from the work of the Compliance and Enforcement staff who prepare and present the required report to the Committee, to the work of Clerks Services staff in preparing for and managing the meeting, and Legal Services staff who may provide legal advice to both staff and committee members. Additional resources may be required due to certain types of hearings; Appeals of a Vicious Dog Notice usually requires attendance by the Animal Control Officer; Appeals of a Property Standards Order to Comply usually requires attendance by the City's Chief Building Official; and depending on the complexity of the hearing the City Solicitor may be in attendance.

The survey conducted indicates that the municipalities of Toronto, Mississauga, Hamilton, London and Brampton have user fees attached to appeal hearing requests ranging from \$100 to \$450. Some have a set fee for all appeal requests; others have separate fees depending on the type of appeal requested.

In order to recover a small portion of the actual costs to conduct a hearing it is recommended that a \$100 fee for service be imposed upon the person requesting the hearing. This will ensure that the person requesting the hearing is serious in their intent and committed to the process of making representations at the hearing, without being an onerous barrier to the appeal process. In a typical year, there might be five such hearings and therefore the annual revenue for this user fee is estimated at \$500.

Towing Vehicles from Private Property

Currently, there are no fees collected by Compliance and Enforcement to respond to a request from a private property owner to tow a vehicle from his or her property. As there is no benefit to the general public for this service, it is recommended that the cost be recovered as a user fee from the requestor.

Upon receipt of a request to tow a vehicle from a private property owner, the By-Law Enforcement officer conducts an initial inspection to confirm the particulars and ensure that the evidence of the property owner is sufficient to authorize the tow. The officer then creates a tracking record and contacts the police for verification, searches the appropriate records to identify the vehicle owner and sends a registered letter to the owner, advising of the request to tow. Following these processes, the Enforcement Officer notifies the tow company and re-inspects the property to ensure the vehicle has been towed. The cost of towing is paid by either the property owner or the vehicle owner.

The municipalities of Guelph and Mississauga have user fees associated with the administration of towing vehicles in the \$30 to \$50 range. However, based on the actual costs of performing this service, which includes on average two hours of By-Law Officer time for two site visits, case management, database searches, police verification and issuance of correspondence as well as the \$20 cost to send the registered letter, it is recommended that the property owner be charged \$140 when requesting this service. In 2014 this service was provided to private property owners 119 times. At approximately 100 such requests annually, revenue in the amount of \$14,000 may be generated by this cost recovery.

Late Business License Renewals

The City’s licensing by-laws require that a license contains an expiry date and if the business intends to continue operating past the expiry date on the license, it must renew the license before it expires. The Licensing Officer sends two separate notifications to all businesses well in advance of the expiry of the license. If licensees do not renew, enforcement officers are engaged in follow up, through investigations and inspections to determine if the business is still operating. The fee for the enforcement activity of following up with a business owner that has not renewed their license is recommended to be considered a user fee and a cost directly to the person who has caused the enforcement action. A fee for late license renewals imposed on business owners will assist to recover the cost of follow up to late renewals and provide motivation for business owners to renew their licenses on time in compliance with business licensing by-laws.

Municipalities that have established a fee for business owners if they renew their business license after it expires are Thunder Bay, Barrie, London, Brampton, Mississauga and Toronto. Some have a set fee ranging from \$31 to \$75. The City of Toronto has a graduated approach to fees for late renewals.

It is recommended that the system of a graduated approach be adopted by CGS, in the manner described in the following table.

Notice	Cost	Description
1 st Late Renewal Notice	\$10	Mailed at least 30 days after license expiry – covers the administrative cost associated with reporting on, preparing, printing and mailing a notice.
2 nd Late Renewal Notice	\$70	Mailed at least 90 days after license expiry - 1 hour cost of \$60 for officer to investigate, inspect and follow up to ensure renewal plus \$10 for 1 st Late Renewal Notice

The additional fee for owners will hopefully motivate compliance resulting in less late renewals and a more consistent approach to budget projections. The Web Apps Business Licensing Data Base indicates from experience from the past 2 years, that approximately \$9,500 in additional revenue may be obtained from businesses that renew after the expiry date on the license.

Financial Implications

An estimate in the annual revenue collected from the establishment and implementation of the user fees recommended in this report is based mostly on 2014 data, previous experiences and summarized in the following table.

Revenue Summary

Recommended User Fees	Potential Revenue (yearly)
By-law Officer Inspections	9,000
Appeal Hearings for Property Standards Orders, Grounds and Yards Notices, Licensing Decisions and Vicious Dog Notices	500
Towing Vehicles from Private Property	14,000
Late Business License Renewals	9,500
Total Potential Yearly Revenue	\$33,000

Conclusion

The services and activities performed by staff in Compliance and Enforcement described herein are identified as user fees and recommended to be charged to the person directly responsible for cost of these services. This recommendation provides additional enforcement tools to affect compliance with CGS by-laws, is in line with the City’s

mission to use its resources responsibly and will be reviewed and adjusted annually according to inflation costs as part of the annual review of the Miscellaneous User Fee By-Law.

User Fees for By-law Enforcement Activities - Municipal Survey								
City	By-law Officer Re-Inspections	Admin Fee for Remedial Action of Order or Notice	Attending Property Cleanup, Repair or Demolish	Renewal of Business License after Expiry	Request Appeal	Bylaw Officer Pay Duty	Towing fm Private Property Admin Fee	Court / Tribunal Attendance
Thunder Bay	50		30 per officer	50				
Barrie	103	50% of costs to do work		31				
Guelph						45 per officer per hour - min 2 hrs	34.13	
London	95 per hour			75	100			
Brampton	100	15% of costs or \$250 whichever is greater			125			
Hamilton					125 Property Standards; 137 Licensing; 154 Vicious Dog			
Mississauga				75	450 Vicious Dog		34-car, 50-heavy vehicle	
Toronto	94 first hour/55 each additional hour or part thereof.	Depending on contract cost. From 100 for 500 in costs to 2000 for over 10,000 in costs		up to 30 days, 8.28; 31-60 days, 61.10; 61-90 days 118.06	265 Property Standards; 200 for all others			558.81
Oshawa	100		Full recovery, all costs including officer time		200 Property Standards; 250 Taxi Licensing	65/hr min 2hrs; 97.50 after hours; Vehicle 150		