

User Fee Policy

Date:	September 9, 2011
To:	Executive Committee
From:	City Manager Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2011\Internal Services\Fp\Ec11015Fp

SUMMARY

This report responds to City Council's request that the City Manager undertake a comprehensive user fee review to develop a user fee policy and framework that will ensure consistency in establishing and administering the City's user fees program.

The recommended User Fee Policy attached herewith as Appendix 1, sets out a consistent and transparent approach for establishing and managing user fees. The fundamental principle of the recommended Policy is that user fees should be utilized to finance those City services and goods that provide a direct benefit(s) to specific users and that user fees should be set to recover the full cost of those services to the extent that there is no conflict with City policy objectives and other legislative requirements. Services that benefit the entire community should be funded by property taxes.

While the central principle is to promote equity by recovering the cost of services from those who receive direct benefits from the service, the User Fee Policy is cognizant of the need to protect citizens who, through inability to pay, would be denied access to services. Accordingly, exceptions to full cost recovery and general criteria for waiving fees in accordance with City policy objectives have been included in the guiding principles of the Policy. The Policy requires periodic review and update of user fees based on factors such as inflation, other cost increases, service level changes and delivery methods, and the need to ensure that user fee revenues do not exceed the cost of providing the respective services. Furthermore, the Policy is designed to ensure a consistent, transparent approach for setting user fees in compliance with best practices and addresses the need for public consultation.

RECOMMENDATIONS

The City Manager and Deputy City Manager and Chief Financial Officer recommends that:

1. City Council adopt the User Fee Policy set out in Appendix 1 to this report (the "User Fee Policy") and approve the requirement that all City Programs and local boards of the City, as defined in the User Fee Policy (a "Local Board"), comply with the principles, rules and procedures established therein.
2. City Council adopt a by-law pursuant to section 263 of the *City of Toronto Act*, 2006, providing that a user fee of a Local Board for a service or activity offered to the general public, with the exception of the Toronto Transit Commission (the "TTC"), not come into force until it is approved by City Council, a condition of such approval being compliance with the User Fee Policy.
3. City Council direct that the relationship frameworks with each of the Local Boards be amended to reflect Recommendation 2.
4. City Council direct those Local Boards with market driven user fees that change frequently throughout the year so as to respond to market conditions, to report to the Executive Committee by December 31, 2011 with a list of such fees and seeking authority from Council to specifically exempt such fees from requiring Council approval.
5. Authority be granted to the Deputy City Manager and Chief Financial Officer to annually determine, in accordance with the User Fee Policy, the automatic annual inflationary adjustment to be applied to each user fee for which Council has approved an automatic annual inflationary adjustment, and that Chapters 441 and 442 of the City of Toronto Municipal Code be amended accordingly.
6. City Council grant authority to introduce the necessary bills to give effect to these recommendations.

FINANCIAL IMPACT

This report has no direct financial impact. However, approval of the recommended User Fee Policy has the potential for revenue enhancement through full cost recovery. Determining cost recovery rates necessitates an accurate calculation of the full cost of providing goods and services, regardless of whether all services are deemed to be fully cost recoverable.

Preliminary findings to date of the comprehensive user fee review indicate that in most cases, user fees have been set without first establishing the full cost of the related services to include capital cost. Further, most City Programs and Local Boards have confirmed that only direct, and in some cases direct and indirect costs are considered in setting user fees. By not establishing the full cost of the respective user fee services, user fees are generally set too low to appropriately recover user fee revenues.

Adoption of the recommended User Fee Policy will facilitate consistent and transparent decision-making regarding user fees; allow for better resource planning; and enhance the City's ability to forecast user fee revenues and demonstrate that it has maximized this revenue source.

DECISION HISTORY

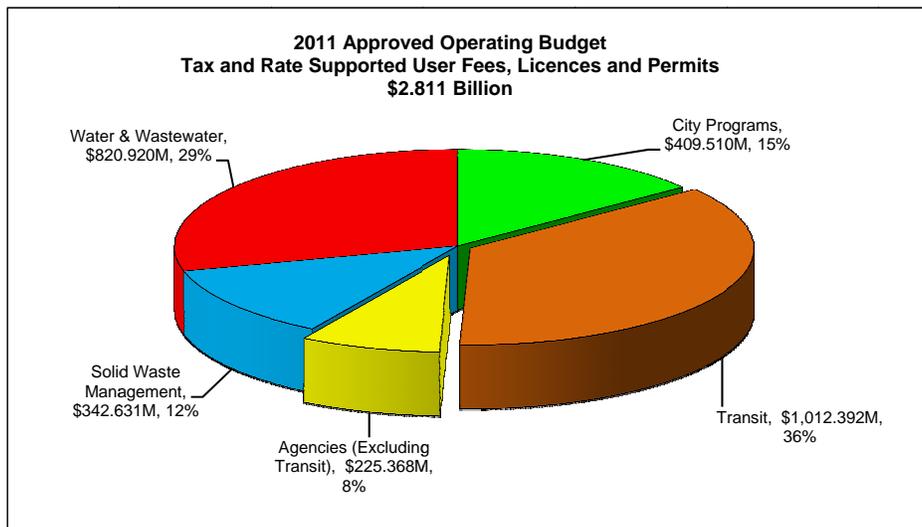
In 2005, City Council adopted a Comprehensive Report on the City's Long-Term Fiscal Plan, which included the principle that, "the pricing of user fees should generally take into consideration the full cost of the service (direct, indirect and cost of capital)." This fundamental principle is incorporated in the User Fee Policy recommended in this report.

On April 12, 2011, City Council adopted Executive Committee Report Ex 4.10, Service Review Program and directed the City Manager "to undertake a User Fee Review to establish a user fee policy and framework that will ensure consistency in developing and administering the City's user fees program and report the outcomes to Executive Committee". City Council further requested that the City Manager include all Local Boards in the review.

ISSUE BACKGROUND

The City offers a broad range of services that affect a wide variety of activities with over 3,700 user fees including recreation program fees, water consumption, admission fees, permit and licence fees, rents, child care fees and fees from sale of publications and other products. Parks, Forestry and Recreation alone has 1,744 user fees representing 47 percent of the user fee inventory.

User fee revenues total \$2.811 billion, representing 26 percent of the 2011 Operating Budget Revenues for tax levy and rate supported programs. As illustrated in the chart below, transit fares of \$1.012 billion represent 36 percent - the largest source of the 2011 User Fee Revenue Budget.



To date, City Council has not approved an overall corporate user fee policy to guide City Programs and Local Boards in evaluating all fees against the cost of providing the service. As a result, most user fees are implemented without the benefit of, and compliance with, a coherent, corporate policy, and without an appropriate basis for determining the proportion of costs to be recovered from user fees, or a systematic, comprehensive process for fees to be periodically reviewed. Consequently, it cannot be ascertained that user fee rates are set to recover the full costs of providing direct benefit services and, in so doing, maximize user fee revenues.

Traditionally, user fees have been monitored and adjusted for price changes through the annual budget process. The budget process prompts assessment of existing fees that are subject to change or where new fees are introduced, and provides the public with the opportunity to make presentation to Budget Committee during the review of the operating budget.

Private and public sector researchers and organizations collectively assert that well designed user fees ensure optimal and efficient use of scarce resources and assist municipalities in reducing pressures on property tax revenues. Generally, a coherent user fee policy will help to allocate resources in a rational way and provides the City with a more efficient user fee program to enable it to recover the cost of services that provide direct benefits to specific users, and thus redirects property tax revenues to fund services that provide a benefit to the public.

Comprehensive User Fee Review:

In April of 2011, City Council approved a Service Review Program to address a sizeable 2012 Operating Budget pressure and a growing structural shortfall. The Service Review Program included a Comprehensive User Fee Review, the purpose of which is to examine all user fees currently in place to determine the extent to which they are fair, and collect the full cost of providing the service. City Council required that the Comprehensive User Fee Review examine all services delivered by City Programs and Local Boards to:

1. Identify all existing user fees;
2. Determine current basis of the fee price;
3. Determine those fees that should be fully cost-recovered, and the extent to which the full cost is recovered;
4. Determine those fees that should be exempt from full cost recovery;
5. Identify additional opportunities for collecting user fees; and,
6. Assess whether user fee services are delivered economically and efficiently.

It was further required by City Council that the review examine the methodology used to determine the cost of services ensuring that the full cost is determined prior to setting fees; and to analyze conditions under which fees may be waived for specific persons or groups of persons.

User Fee Review Methodology:

The approach for the User Fee Review involved establishing a Corporate Review Team to address policy issues and perform due diligence to ensure that all fees are examined through a common lens. In addition, a Working Group undertook a detailed analysis of all City Program

and Local Boards' services and fees. The review assessed the processes, guidelines and systems currently used by City Programs and Local Boards to establish and manage user fees. Interviews were held with key City Program and Local Board staff on their user fee practices, assumptions, legislative authority, pricing strategies and service costing. The review was conducted based on a framework that incorporated best practices and with a goal of assessing. The review assessed:

- The extent to which the general public and identifiable individuals or groups benefit from the service;
- Who should be charged and how much to charge;
- The extent to which the full cost of providing the service should be recovered from user fees; and if not confirming that principles and guidelines were established to award subsidies;
- The pricing strategy that would best achieve the objectives of the service or program; and,
- The degree to which public consultation was considered when introducing or changing user fees.

Given the scope of the project, challenging timelines and other constraints, key components of this review such as the calculation of the full costs of user fee services could not be delivered as part of this report. A separate report will be provided in the Fall of 2011 which will detail the findings of the review of the existing user fee program and administration, and will make recommendations on the disposition of existing user fees as well as identifying any opportunity for new fees. This report recommends a User Fee Policy which forms the basis for completion of the comprehensive review. Work will continue on the detailed evaluation of all user fees, including the calculation of full cost.

Preliminary User Fee Findings to Date:

The comprehensive review of user fees is ongoing. To date, all user fees have been input into a database and have been aligned to their respective services and activities. Financial Planning staff, in conjunction with the Working Group, and the Corporate Review Team has begun evaluation of compliance with the principles and best practices recommended in the User Fee Policy attached as Appendix 1 to this report. Preliminary findings of the review team are:

1. In the absence of a cohesive user fee policy, user fees have been established and managed without a clear set of common principles.
2. The full cost of user fee services has not been consistently determined as the basis for setting user fee rates. Some City Programs indicated that they use direct costs only, others indicated direct plus indirect, and a few indicated that they use direct, indirect and capital costs as the basis for setting their user fees.
3. Neither the amount of revenues collected for each user fee service is not always known nor have consistent efforts been made to ensure that user fee revenues do not exceed the cost of providing the related service.

4. Generally, no recurring process is in place to ensure that user fee rates and user fee revenues are kept current. In many cases, user fee rates were not reviewed for at least five years to ensure that they were generating the appropriate level of recover costs. In some cases, user fees have not been reviewed since amalgamation.
5. The basis for setting user fees is not always known. This is especially apparent in situations where the full cost of the related service is not established or recovered; beneficiaries are not clearly identified and it is not explicit what level of subsidy is provided to these beneficiaries.
6. There is no consistent approach to the approval process for user fees. Fees are frequently approved through various channels, including but not limited to, formal reports to City Council, the annual budgeting process, delegated authority to Division Heads, etc.
7. The existing program-specific approach to user fee implementation does not address cross-divisional issues; nor does it consider cross-divisional implications or opportunities and synergies that might be inherent in an integrated process that includes cross-divisional consultation. For instance, in determining the cost of providing some services, the contribution of other Programs involved either directly or indirectly has not been included. The full cost of providing these services has therefore not been taken into consideration in determining the user fee rate and so it is unclear to what extent user fee services are funded from the property tax revenues.

COMMENTS

Legislative Authority:

General:

Authority to impose user fees is provided by a variety of provincial statutes including Part IX of the *City of Toronto Act, 2006* (CoTA), the *Development Charge Act*, and the *Building Code Act*.

Part IX of the CoTA provides general authority for establishing user fees and allows the City and its “local boards (extended definition)” to impose fees for:

- (i) services or activities provided or completed by or on behalf of the City;
- (ii) costs payable by the City for services or activities provided by or on behalf of other municipalities or Local Boards; and,
- (iii) use of the City’s property including property under the City’s control.

Pursuant to section 261 of CoTA, the City and its “local boards (extended definition)” are prohibited from imposing user fees that are based on, or are computed by reference to:

- Income of a person, however it is earned or received, except that the City may exempt, in whole or in part, any class of persons from all or part of a user fee or charge on the basis of inability to pay;
- Use, purchase or consumption by a person of property other than property belonging to or under the control of the City;
- Use, consumption or purchase by a person of a service other than a service provided or performed by or on behalf of or paid for by the City;
- Benefit received by a person from a service other than a service provided or performed by or on behalf of or paid for by the City; or,
- Generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

In addition, the City and its “local boards (extended definition)” are prohibited from charging a poll tax or similar fee or charge, including a fee or charge which is imposed on an individual by reason only of that person’s presence or residence in the City.

In interpreting the distinction between fees and taxes, the courts require that a fee charged for a service or activity must bear a relationship to the cost of providing the service or activity for which the fee is charged. Subsection 259(2) of CoTA provides that the costs included in a user fee may include costs incurred for administration, enforcement and the establishment, acquisition and replacement of capital assets.

Local Boards:

"Local boards (extended definition)" is defined by CoTA as including City boards, a transportation commission, a public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of the City, and including any body prescribed for the purposes of section 258 of CoTA and excluding a school board, a hospital board and conservation authority.

Pursuant to section 263 of CoTA, the City may pass a by-law requiring that user fees imposed by such local boards do not come into force until approved by City Council.

This report recommends that City Council adopt a by-law, pursuant to section 263 of CoTA, requiring that user fees of local boards (extended definition), with the exception of those of the TTC, charged for services or activities being provided to the general public be approved by City Council, and to require all such local boards to comply with the User Fee Policy and to report any deviation or non-compliance, along with reasons for such deviation or non-compliance to City Council. It is noted that this recommendation does not apply to the TTC as the City's legislative authority for extending such a requirement to the TTC is not as clear as it is for other local boards.

There are some user fees charged by Local Boards that are market based and are changed frequently during the year to respond to market conditions. Theatre tickets and parking rates are

the most prominent examples. It is impractical for Council to approve changes to the prices for these market based services due to the need for these fees to change quickly. Accordingly, it is recommended that such Local Boards be required to seek authority from Council to specifically exempt those market driven user fees that change frequently from requiring Council approval.

Public Notice:

Under section 212(1) of CoTA, the City is required to put in place a policy regarding public notice. To date, the City's policy has been to follow the previously legislated notice periods which included a notice period of 21 days prior to consideration of certain fees such as water rates and solid waste utility rate changes. Subject to the approval of a notice policy, where user fees are introduced and/or changes to existing user fees are requested as part of the annual budget process, public notice will be given prior to the introduction of the budget at City Council. This report recommends that, where user fees have been previously approved for automatic annual inflationary adjustment, no public notice will be required. However, these user fee charges will be presented to City Council during the annual budget process for information and transparency purposes and will be published on the City's Budget Website. In the event that user fees are introduced or changed outside the annual budget process, appropriate public notice must be granted, to allow members of the public to make presentation at the Standing Committee at which the fee is to be considered.

Public notice will be given by posting of the proposed fees at least five working days prior to the date on which the user fee will be considered at Budget Committee or at a Standing Committee, except where a City by-law or other legislation prescribes a different notice period.

The User Fee Policy recommended by this report also recommends enhanced public consultation for the introduction of any new user fees by City Programs or Local Boards, and the delegation of authority to the Deputy City Manager and Chief Financial Officer to establish the appropriate automatic annual inflationary adjustment for each user fee in accordance with the User Fee Policy.

GFOA Recommended Practice on Setting User Fees:

The Government Finance Officers Association (GFOA) has established best practices and guidelines for setting and administering user fees, including the following:

- The adoption of a formal policy regarding fees that should identify what factors are to be taken into account when pricing goods and services. The policy should state whether the jurisdiction intends to recover the full cost of providing goods and services. It should also set forth under what circumstances a charge or fee might be set at more or less than 100 percent of full cost. If the full cost of a good or service is not recovered, then an explanation of the government's rationale for this should be provided and the level of subsidy should be calculated. Some factors that might influence pricing practices are the need to regulate demand, the desire to subsidize a certain product or service, administrative concerns such as the cost of collection, and the promotion of other goals. For example, mass transit might be subsidized to meet environmental strategies.

- The full cost of providing a service should be calculated in order to determine the basis for setting the charge or fee. Full cost incorporates direct and indirect operating costs including overhead costs; and capital costs such as finance charges and amortization. Examples of overhead costs include payroll processing, accounting services, computer usage and other central administrative services.
- Fees should be reviewed and updated periodically based on factors such as the impact of inflation, other cost increases, the adequacy of the fee revenues to cover costs and current competitive rates.
- Information on fees should be available to the public. This includes the government's policy regarding full cost recovery and information about the amounts of fees, both current and proposed.

When to Charge User Fees:

Every City service should be reviewed at least once every four years to determine if the cost of providing the service should be recovered through user fees or funded from property tax revenues. In order to accomplish this, Division Heads need to determine whether the benefits each service provides accrue directly to specific individuals or groups of individuals (a private service), and should therefore be paid for by users of the service; or whether the service benefits the entire society (a public service) and should be funded from the property tax revenues.

The characteristic of the service and the nature of the benefits derived will help to determine the type of service and when to charge user fees. Services delivered by government are generally classified into the following major categories:

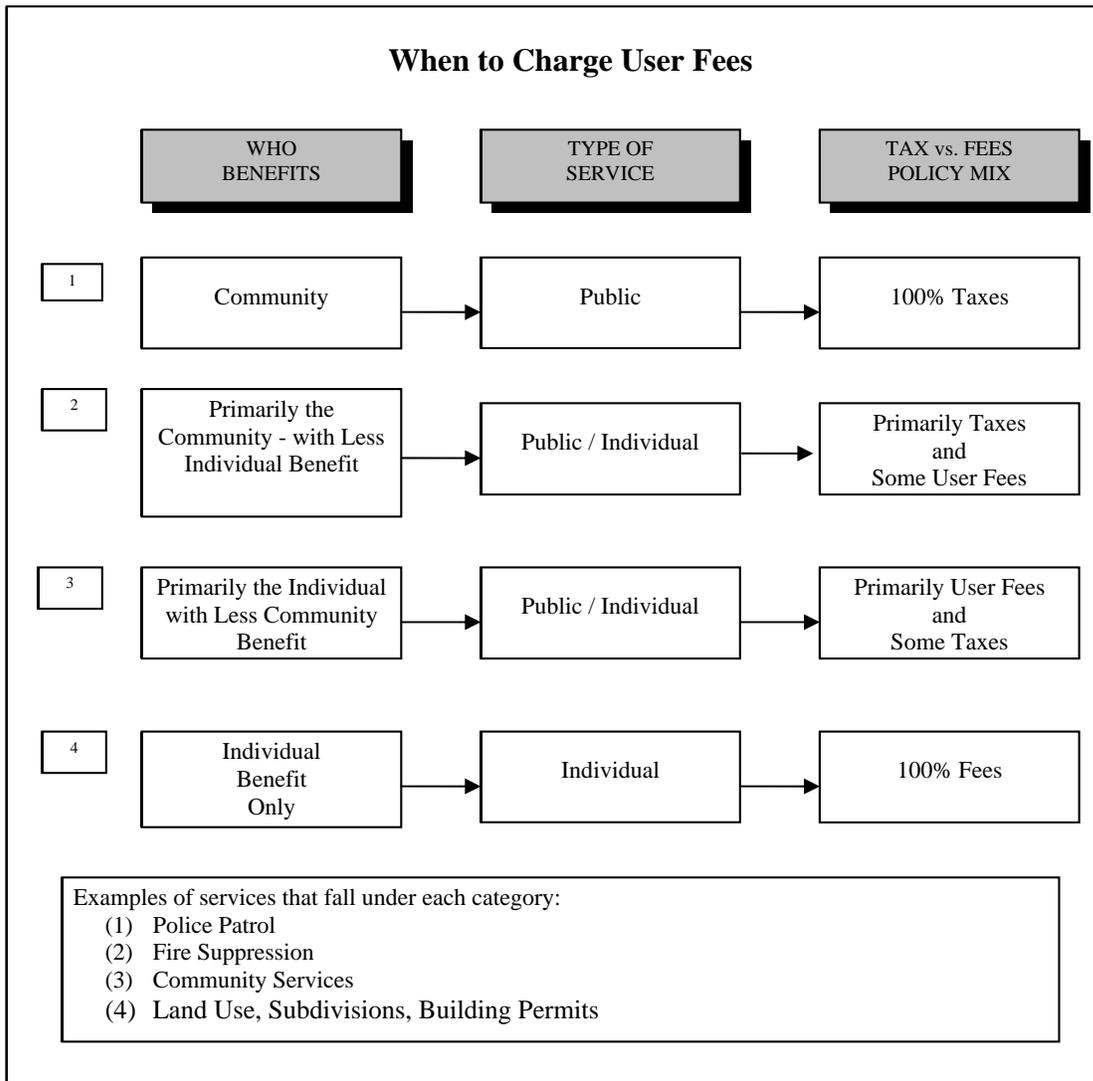
- **Public Service:** Benefits the general public; it is impossible to exclude someone from using or enjoying the benefits provided by the service.
- **Private Service:** Benefits specific individuals, groups or businesses; it is possible to prevent someone from using the service.
- **Mixed Service:** Benefits the general public as well as the specific individual, group or business using the service.

The chart below represents a decision matrix which should help in determining whether a service should be funded by user fees, property tax revenues or a combination of user fees and property tax revenues, based on the type of service (public or private) and who benefits.

As illustrated in the chart, the analysis distinguishes the degree to which a service benefits the community as a whole and should be funded by property tax revenues, or benefits an individual or groups of individuals and should be funded by user fees. Furthermore, where it is established that consumers have choice in the amount of a specific product or service they consume, the service should also be cost recoverable.

Notwithstanding that a service qualifies for cost recovery, the service may be subsidized by other sources of revenue either entirely or partially, if it is determined that full cost recovery

would not be cost effective or would be inconsistent with achieving the City’s policy objectives, or legislative requirements.



Full Cost Recovery Principle:

The full cost recovery principle does not imply that all costs incurred need to be recovered through user fees, as there are many other factors, in addition to cost, to be taken into account in determining a user fee recovery rate and therefore the user fee price. However, the full cost recovery principle recognizes that even if the full cost is not recovered through user fees, understanding the full cost should be the starting point in determining the appropriate user fee. Gathering information on costs will facilitate setting goals for cost recovery rates for each user fee service/activity and the extent to which user fee services are funded from property tax revenues will be transparent to managers, City Council and the public will help to improve the decision-making process.

Waiving User Fees:

Waiving of user fees, in whole or in part, should be considered to ensure that identifiable vulnerable groups are not excluded from using particular user fee services. Waivers (and/or exemptions) should be considered where:

- Groups of individuals without sufficient income to pay the full amount of the user fee would otherwise be denied the privilege of consuming the service.
- Granting relief from full cost recovery promotes or advances economic or social benefits, specific City policy goals and objectives, including:
 - a. Supporting non-profit organizations in the development of projects or activities with clear societal benefits; and,
 - b. Intergovernmental events that benefits society as a whole.
- Legislation or City policy requires the protection of identifiable vulnerable groups.

Waiving of user fees will be considered by City Council and the specific conditions and criteria for waiving user fees must be included in the staff report recommending the fee for City Council's approval. The request should explain the reasons and should state the period for which the exemption will apply. The report must include:

- (1) **Criteria for Eligibility** – eligibility criteria can be by target groups or by type of service. Target groups can be those needing services that have strong societal benefits or those included for 'merit reasons' (e.g. low income).
- (2) **Criteria Weight** – it is necessary to have a scale along which the eligibility of the criteria can be determined. For example, if low income is one of the criteria, the range that constitutes low income should be clearly stated.
- (3) **Financial Impact of the Waiver** – waiver of fees represent a potential loss of revenues to the City. It is possible that the recipient of a fee waiver can pay some or part of the user fees, but not the full amount. Whether the fees will be waived in full or there will be a partial waiving of a portion of the fee and the financial impact of the waiver on the City's operating budget must be stated in the report.
- (4) **Period for which the Waiver is Applicable** – the report must state if the waiver is a one-time only or the period for which the waiver is applicable. Waivers that are not one-time request should be reassessed on a yearly basis unless circumstances warrant a more frequent review.
- (5) **Justification for the Waiver** – the report must state full details of the reasons for waiving the fees and how it will benefit the City, as well as the cost of granting the waiver, and other relevant information that will facilitate City Council's decision-making.

The ultimate goal of any fee waiver or exemption system is to improve equity in access to services, promote or advance City policy objectives, and to provide assistance to community

groups and not-for-profit organizations whose programs and services provides societal benefits that enhances the quality of life for residents of the City of Toronto.

Classification of Fees:

The City's user fees cover a wide range of goods and services, including recreation programs, water consumption, rents, and sale of publications and other goods. A classification system allows management and City Council to distinguish fees by type, and facilitate the annual fee review and the evaluation of cost recovery rates and therefore user fee prices. The City's user fees are classified into the following categories based on the method used to determine the fee amount:

- (i) **Market-Based:** Fees in this category are compared to rates charged by other service providers of the same or similar services to ensure that market competitiveness is maintained.
- (ii) **Province-Legislated:** Fees in this category are legislated by the Province.
- (iii) **City Policy:** Fees in this category are determined by City policy and recovers less than the full cost of providing the service and results in a subsidy being provided to the user of the service.
- (iv) **Full Cost Recovery:** Fees in this category recover the full cost of providing the service.

Adoption of the recommended User Fee Policy will establish a framework for City Programs and Local Boards, as defined in the Policy, that address the following elements in establishing and managing the City's user fees program:

- Determine the beneficiaries of City services and activities to assess the appropriate funding model;
- Develop cost recovery rates that will allow appropriate recovery of the full cost of providing services that benefit specific individuals or groups, thus helping to support the ongoing viability of the services being provided;
- Improve efficiency in allocation of resources and maintain equity considerations in regard to provision of services by having those that benefit from the services provided by the City pay for them;
- Evaluate the full cost of providing the service, and use that information as a basis for determining the user fee;
- Enable the City to make informed decisions on what services are fully cost-recoverable and assess the justification for those that are not, and facilitate policy decisions on what services should be provided to City residents and businesses;
- Identify how fees are set and what factors should be taken into consideration and help the City to ensure that scarce resources are efficiently utilized to provide services that the public needs;

- Establish general criteria for waiving fees, and evaluate the 100 percent subsidy that would be provided to user fee services that are not recovering their cost;
- Provide specific requirements for comprehensive fee review and public reporting on user fee services every four years, or at least once during the term of City Council, to coincide with the multi-year planning and budgeting cycle;
- Enhance the City’s ability to do multi-year revenue forecasting and demonstrate that it optimizes user fee revenues;
- Allow stakeholder input by giving the public the opportunity to be part of the discussion of proposed fee changes or introduction of new fees, and to make a schedule of all fees available to the public; and,
- Require all City Programs and Local Boards to comply with the principles of the policy.

A separate report will be provided in the Fall of 2011 which will detail the findings of the review of the existing user fee program and administration, and will make recommendations on the disposition of existing user fees as well as identifying any opportunity for new fees. This report recommends a User Fee Policy which forms the basis for completion of the comprehensive review and with work continuing on the detailed evaluation of all user fees, including the calculation of full cost.

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SIGNATURES

Joseph P. Pennachetti
 City Manager

Cam Weldon
 Deputy City Manager & Chief Financial Officer

Attachments:

- Appendix 1 - City of Toronto User Fee Policy
- Appendix 2 - City of Toronto User Fee Policy Guidelines and Procedures

APPENDIX 1

City of Toronto User Fee Policy

Definitions

In this Policy, the following terms have the following meaning:

Full Service Cost include direct and indirect costs, including the costs of operations and maintenance, overhead, and charges for the use of capital assets used to provide the service.

Local Boards include City boards, the Toronto Transit Commission, the Toronto Public Library Board, the Toronto Board of Health, the Toronto Police Services Board, and any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of the City, and any body prescribed for the purposes of section 258 of the *City of Toronto Act, 2006*, and excludes school boards, hospital boards, and conservation authorities.

Market Price/Value is the price of a good or service that is based on competition in the open market. Where there is substantial, competitive demand, market price is determined using commercial practices such as competitive bidding or by reference to prevailing prices in competitive markets. In the absence of competitive demand, market price is determined by taking into account prevailing prices for products or services that are the same or substantially similar to those provided by the City.

Pricing Methodology means the process or methodology used to determine the price of a user fee or charge.

Subsidy is the amount of the full cost of providing a service that is not recovered from user fees but is paid for by the City, principally from property tax revenues.

User Fee means a fee or charge to individuals or groups and/or businesses for the provision of a service, activity or product, or for conferring certain rights and privileges, which grant authorization or special permission to a person, or group of persons to access City-owned resources (including property) or areas of activity.

Purpose

The purpose of this Policy is to provide a framework to ensure a consistent approach for establishing user fees across City Programs and Local Boards. This Policy is designed to improve consistency, transparency, efficiency and accountability in establishing and managing user fees. This policy promotes recovery of the full cost of services for which user fees are charged, to the extent that there is no conflict with the City's policy objectives and priorities. Furthermore, the Policy requires ongoing review of user fees to ensure that they are adjusted to reflect changes in the cost of delivering services, changes in service levels, as well as the continued relevance of policy objectives and actual outcomes.

Policy Statement

City Programs and Local Boards will collect user fees to recover the full cost of services where it is determined that a service, product or the use of City facilities or resources provide direct benefits to identifiable individuals, groups of individuals or businesses, beyond those that accrue to the general public.

A direct benefit is deemed to accrue and a user fee will be considered when a service, product or use of City facilities or resources:

- (i) Enables the recipient to obtain a more immediate or substantial benefit that is distinct from or greater than that enjoyed by the general public; or,
- (ii) Is performed at the request of, or for the convenience of the recipient, and is beyond the services regularly performed for other individuals, groups of individuals, business sectors or for the general public.

User fees will be set to recover the full cost of providing the applicable service, except where City Council has approved a subsidy or exemptions; where services are based on competition in the open market; and where fee amounts are legislated by the Province. The amount of a fee must not exceed the full cost of providing the applicable service.

Application

This Policy applies to all City Programs and Local Boards.

Authority

With the exception of certain market based fees charged by Local Boards, City Council must authorize all user fees and changes to existing user fees for all City Programs and for all Local Board (with the exception of the Toronto Transit Commission) in respect of user fees being charged for services being provided to the general public prior to implementation of the user fees.

Division Heads are accountable for ensuring that user fees for services charged by their Program or Local Board are properly charged, collected, deposited and in general, are administered in compliance with the principles set out in this Policy.

Principles

The following principles will govern the City's user fees:

1. When to Charge User Fees:

Where it is determined that a service or activity provided by the City or Local Board confers a direct benefit on individuals, identifiable groups or businesses, a user fee will

be set to recover the cost of providing the service [a "User Fee Service"]. Ordinarily, User Fee Services will be funded fully through the user fee charged for the service.

Where it is determined that a service or activity provided by the City or Local Board confers a direct benefit to individuals, identifiable groups or businesses but also results in benefits to the general public (positive externalities) that service or activity will be partially funded by other revenue sources by way of a subsidy (see Principle 4 below). Services that benefit the general public will be funded by property tax revenues.

2. Full Service Costs:

The full cost of providing each User Fee Service will be determined as the starting point for setting the user fee, regardless of whether the full cost will be recovered. The full cost of providing the User Fee Service will be reviewed annually to confirm that it continues to be accurate.

3. Calculation of Full Service Costs:

The full cost of each User Fee Service shall include the direct costs and the indirect costs, including operations, maintenance and overhead, of providing the service or activity; and the capital cost for the replacement of assets utilized to provide the service or activity.

4. Subsidy:

Where less than the full cost of providing a User Fee Service is to be collected, the cost of providing the User Fee Service has been subsidized by other revenue. The reasons why a subsidy should be provided for a particular User Fee Service will be detailed in a report to City Council which seeks authorization for the subsidy and level of subsidy. The report will include conditions and criteria for awarding subsidies.

5. Waivers and Exemptions:

User fees may be waived, in whole or in part, for groups of individuals or businesses based on criteria such as ability to pay, City policy or other criteria. The report recommending the user fee and the by-law establishing it will include the criteria for providing waivers or exemptions from the user fee, and where appropriate, may include a delegation to the appropriate official to waive or rebate on a case-by-case basis in accordance with the criteria set out in the report.

6. Automatic Annual Inflationary Adjustment:

Automatic annual inflationary adjustments to user fees, which have been approved by City Council, will be effective on January 1 of each year. Authority is delegated to the Deputy City Manager and Chief Financial Officer to annually determine the automatic annual inflationary adjustment to each such user fee based on the projected rate of

inflation for the upcoming year for the cost of each component of the overall cost of providing the User Fee Service for which the user fee is charged. The projected rate of inflation for each component cost will be set out in the City's annual Budget Instructions and Guidelines which will be posted on the City's website prior to January 1st of the year to which such rates will apply. The new amount of the user fee rates after the automatic annual inflationary adjustment has been made will be added to Chapter 441 of the City's Municipal Code as early in the year as possible.

7. User Fee Review:

User fees will be reviewed annually as part of the operating budget process in order to confirm their adequacy to recover the full cost of the associated User Fee Service and where required, to recommend appropriate adjustments through the budget process.

A comprehensive review of all user fees will be conducted at least once every four years to ensure that they comply with the principles set out in this Policy and with best practices.

8. Revenue Allocation:

Subject to legislative requirements, revenues generated from user fees will be used to pay for costs incurred to provide the associated User Fee Service, and where the User Fee Service is provided jointly by more than one City Program or Local Boards, the user fee revenues will be allocated to the respective City Program or Local Board based on the direct and indirect costs incurred; and revenues collected for the recovery of capital costs will be placed in a Capital Financing Reserve Fund for the purpose of the replacement of the associated capital asset(s).

9. Public Notice:

With the exception of City Council approved automatic annual inflationary adjustments, where user fees are recommended to be introduced or changed, the public will be provided with five working days' notice of the recommended user fee prior to the meeting of the committee at which the recommended user fee will be considered, and will be provided with an opportunity to make presentations to the committee considering the user fee prior to the submission of the user fee to City Council for approval.

10. Public Consultation:

Public consultation in addition to the opportunity to make presentations to the committee considering a user fee, will be undertaken when new user fees are being recommended to City Council for approval, outside of the annual budget process. The consultation will elicit public input through a variety of channels and mechanisms to ensure that stakeholders have been granted reasonable opportunity to express their concerns, needs and priorities, and the Division Head of the City Program or Local

Board recommending the new user fee will determine the means by which such public consultation will be undertaken.

11. All Fees Approved by City Council:

User fees for all City Programs will be approved by City Council before implementation of such fees. User fees charged by Local Boards (with the exception of the Toronto Transit Commission) for User Fee Services being provided to the general public will also require approval by City Council, with the exception of certain market based user fees charged by Local Boards which have been specifically exempted by Council from the requirement of prior Council approval.

12. Chapter 441:

All user fees will be included in Chapter 441 of the City of Toronto Municipal Code. Chapter 441 will be updated to reflect the adoption of new fees or changes to existing user fees at the City Council meeting immediately following the meeting at which the fee approval was obtained, wherever possible.

13. Four Year Review:

This Policy, along with its associated principles and guidelines, will be reviewed at least once every four years in order to ensure continuing relevance and conformance with best practices.

APPENDIX 2

City of Toronto User Fee Policy Guidelines and Procedures

The following guidelines complement the principles set out above and will be considered when developing new user fees, or where changes to existing user fees are contemplated.

When to Charge User Fees:

Every City service should be reviewed at least once every four years to determine if the cost of providing the service should be recovered through user fees or funded from property tax revenues. In order to accomplish this, Division Heads need to determine whether the benefits each service provides accrue directly to specific individuals or groups of individuals or businesses (a private service), and should therefore be paid for by users of the service; or whether the service benefits the entire society (a public service) and should be funded from the property tax revenues.

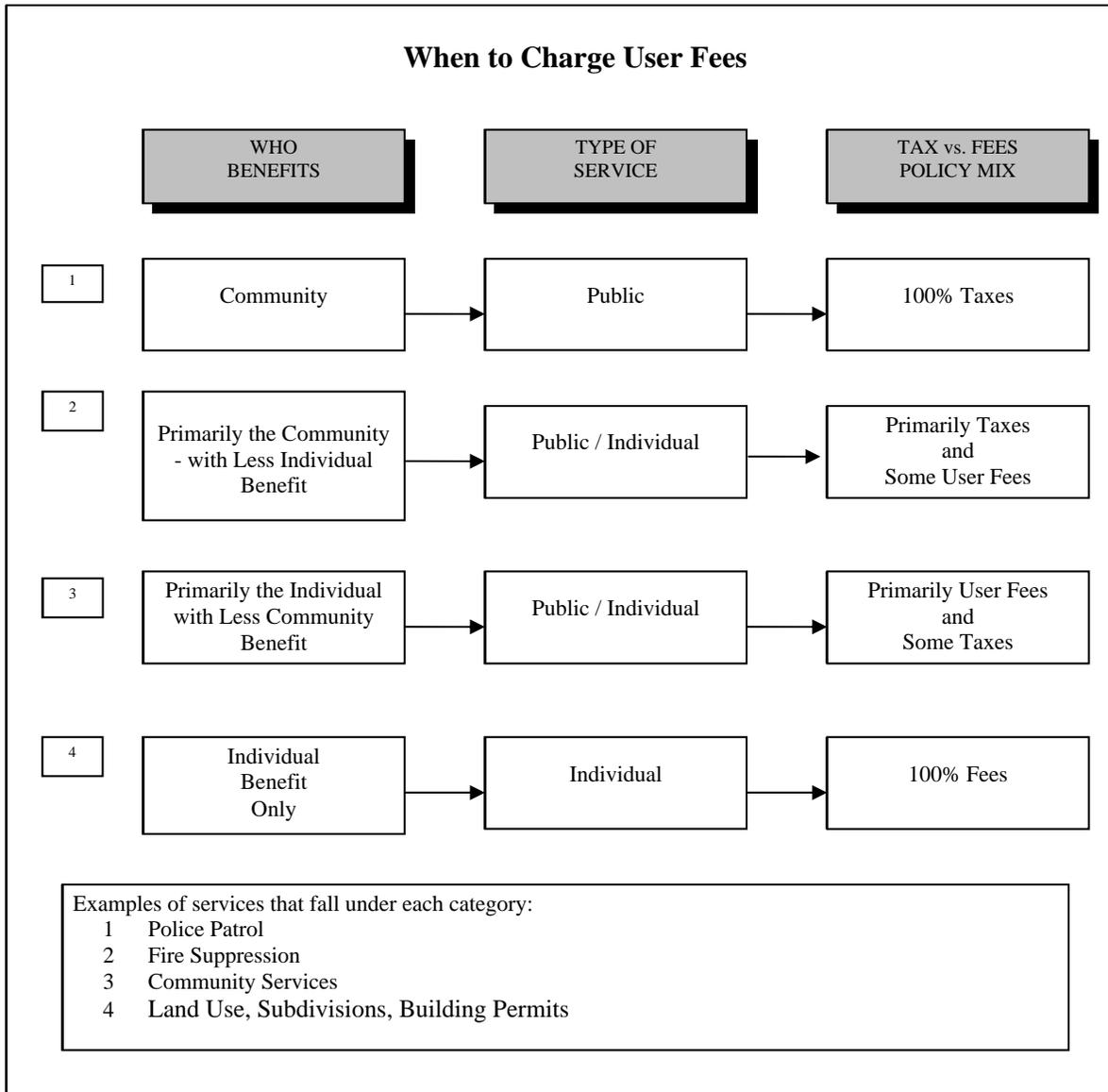
The characteristic of the service and the nature of the benefits derived will help to determine the type of service and when to charge user fees. Services delivered by government are generally classified into the following major categories:

- **Public Service:** Benefits the general public; it is impossible to exclude someone from using or enjoying the benefits provided by the service.
- **Private Service:** Benefits specific individuals, groups or businesses; it is possible to prevent someone from using the service.
- **Mixed Service:** Benefits the general public as well as the specific individual, group or business using the service, such as stewardship of heritage assets.

The chart below represents a decision matrix which should help in determining whether a service should be funded by user fees, property tax revenues or a combination of user fees and property tax revenues, based on the type of service (public or private) and who benefits.

As illustrated in the chart, the analysis distinguishes the degree to which a service benefits the community as a whole and should be funded by property tax revenues, or benefits an individual or groups of individuals and should be funded by user fees. Furthermore, where it is established that consumers have choice in the amount of a specific product or service they consume, the service should also be cost recoverable.

Notwithstanding that a service qualifies for cost recovery, the service may be subsidized by other sources of revenue either entirely or partially, if it is determined that full cost recovery would not be cost effective or would be inconsistent with achieving the City's policy objectives, or legislative requirements.



Full Cost Recovery:

Consistent with best practices for user fees, it is the City’s Policy that user fees, including permits and licences should be set to recover the full cost from those who receive a direct benefit from the service; or where the service is performed at the request of, or for the convenience of the recipient. Full cost represents the value of all the resources used or consumed in the provision of the service.

Full cost recovery sets a framework for the efficient allocation of the City’s scarce resources by recovering cost from those that benefit from goods and services provided by the City, or to those that engender the need for the service. The cost recovery framework will facilitate reducing reliance on property tax revenues, maintaining equity considerations in regard to the provision

of services; and contribute to the effective and efficient use of resources by having those who benefit from a service pay the cost of providing that service.

City Programs and Local Boards with user fees shall determine cost recovery rates based on direct and indirect costs, plus capital charges for all fees and shall accurately calculate the full cost of providing services regardless of whether all user fee services are deemed to be fully cost recoverable.

Subsidies:

Notwithstanding the principle that the full cost of user fee services should be recovered, certain factors may exist that warrant recovery of less than full cost, or not to recover costs at all. In such situations, the service is being subsidized by revenue other than user fees. A subsidy should be considered where:

- Full cost recovery would conflict with City policy objectives or priorities, or with legislative requirements.
- Consumption of the good or service provides societal benefits in excess of the value received by those paying for the service. In such cases, the amount of the subsidy should reflect the estimated value of the societal benefit derived from consumption of the service.
- Collecting the user fee is inefficient, not cost effective, or the fee constitutes an insignificant portion of the cost of the applicable service.
- Market conditions preclude setting user fees to recover the full cost of services that are offered in a competitive, open market environment.
- Other conditions exist, based on the extent of societal benefits derived from the general consumption of the service, which justify funding from other revenue sources.

The justification for the level of cost recovery associated with individual user fee services should be clear and explicit. Furthermore, the amount of subsidy should be well defined and transparent to those providing and monitoring the user fee service.

Waiving User Fees:

Waiving of user fees, in whole or in part, should be considered to ensure that identifiable vulnerable groups are not excluded from using particular user fee services. Waivers (and/or exemptions) should be considered where:

- Groups of individuals without sufficient income to pay the full amount of the user fee would otherwise be denied the privilege of consuming the service.
- Granting relief from full cost recovery promotes or advances economic or social benefits, specific City policy goals and objectives, including:
 - a. Supporting non-profit organizations in the development of projects or activities with clear societal benefits; and,
 - b. Intergovernmental events that benefits society as a whole.

- Legislation or City policy requires the protection of identifiable vulnerable groups.

Waiving of user fees will be considered by City Council and the specific conditions and criteria for waiving user fees must be included in the staff report recommending the fee for City Council's approval. The request should explain the reasons and should state the period for which the exemption will apply. The report must include:

- 1) Criteria for Eligibility – eligibility criteria can be by target groups or by type of service. Target groups can be those needing services that have strong societal benefits or those included for 'merit reasons' (e.g. low income).
- 2) Criteria Weight – it is necessary to have a scale along which the eligibility of the criteria can be determined. For example, if low income is one of the criteria, the range that constitutes low income should be clearly stated.
- 3) Financial Impact of the Waiver – waiver of fees represent a potential loss of revenues to the City. It is possible that the recipient of a fee waiver can pay some or part of the user fees, but not the full amount. Whether the fees will be waived in full or there will be a partial waiving of a portion of the fee and the financial impact of the waiver on the City's operating budget must be stated in the report.
- 4) Period for which the Waiver is Applicable – the report must state if the waiver is a one-time only or the period for which the waiver is applicable. Waivers that are not one-time request should be reassessed on a yearly basis unless circumstances warrant a more frequent review.
- 5) Justification for the Waiver – the report must state full details of the reasons for waiving the fees and how it will benefit the City, as well as the cost of granting the waiver, and other relevant information that will facilitate City Council's decision-making.

The ultimate goal of any fee waiver or exemption system is to improve equity in access to services, promote or advance City policy objectives, and to provide assistance to community groups and not-for-profit organizations whose programs and services provides societal benefits that enhances the quality of life for residents of the City of Toronto.

Cost-Recovery Strategy:

The major principle of the User Fee Policy is that those who receive the benefits should pay. Therefore, cost recovery strategies should consider the extent of the benefits received by identifiable individuals/groups (private benefit) versus that received by the general public. Thus, there will be situations where full cost recovery will not be the appropriate pricing strategy. However, the level of subsidy should be based on the full cost of delivering the service and be taken into consideration in any decision on user fees; and the reasons for recovering less than the full cost of providing the service should be stated. This will help to improve consistency, transparency and accountability in managing user fees and facilitate City Council's decision-making process.

The following factors should be considered when setting user fees and cost recovery levels:

- (i) Community-wide versus special benefits. Where the City provides goods or services that have societal benefits, the level of user fees should reflect the benefits received by the general public relative to the private benefits.
- (ii) The capacity of the user to pay. One of the objectives of the user fee system is to achieve equity in the distribution of the cost of providing the service by charging individual users who receive direct benefit for the use of such services. A full cost recovery strategy may negatively impact low income groups; therefore, the cost recovery level should be in accordance with the individual's ability to pay where services are specifically designed to serve particular groups or segments of the population in order to achieve public policy outcomes.
- (iii) Where the City provides a cost recoverable service that is similar to services provided by the private sector under competitive market conditions, the City's user fees should be in line with prices charged in the private sector.
- (iv) The fee charged for services can significantly impact demand. If the user fee is too low relative to the cost of providing the service, the City may have higher demand during peak periods, resulting in capacity being increased to meet this demand while there is under-utilized capacity during off-peak periods. In an environment with increasing public demand for services, user fees can be utilized as a mechanism for allocating scarce resources in an efficient manner. The implementation of full cost recovery generally ensures that the City is providing a service for which there is a genuine demand that is not overly stimulated by fees that are substantially below cost.
- (v) Where there are limits set by City policy objectives or other legislative requirements on the level of cost recovery, pricing should reflect these limits.

An impact assessment must be conducted to ensure that the value of the benefit provided bears a relation to the user fee associated with the service. The impact assessment should focus on factors such as economic competitiveness and on social factors such as access to City services by low-income residents.

Costing of Services:

Sound decision-making should be based on consistent costing practices. A consistent costing methodology for all City services will facilitate effective planning, and will be useful for comparative purposes across programs and among activities. The Full Costing Model developed by Accounting Services is recommended for the costing of City services.

Major elements comprising the Full Costing Model include the following:

- Direct costs / expenditures attributed to the delivery of the service; for example salaries (wages and benefits), materials, supplies and purchase of services.
- Indirect costs / expenditures that cannot be identified and charged directly to a specific program but are related to the resources dedicated to support it; for example support staff within a Cluster, costs that are administered centrally on behalf of the different divisions and

insurance costs.

- Capital cost component or asset utilization / rental costs referred to as capital amortization. Amortization is defined as the original cost of the tangible capital asset divided by its useful life. Examples of capital assets used in the delivery of a program include buildings, vehicles and equipment. In addition, capital costs should also include interest payments.

City Programs and Local Boards with user fee services shall be responsible for establishing full cost in accordance with the Full Costing Model developed by Accounting Services.

Other Costing Considerations:

To distinguish a fee from a tax, the legislation requires that a reasonable connection exist between the cost of providing the service and the fee being charged for that service. The costs of providing a service should include direct operating expenditures, indirect costs (such as administrative overhead), and capital expenses (including depreciation).

The amount of revenues generated from user fees for a particular service, or product should not exceed the full cost of providing the service. Where services provided by the City are the same as or similar to that of other private providers, user fees should be set to maintain market competitiveness. Charges within and among City Programs and Local Boards should be made at full cost.

Information Products:

Products that contain information, regardless of format or media, about City programs, services and policies that have been created and published by or for the Program and Local Board for the purpose of distribution are referred to as information products. In accordance with the principles of this Policy and to ensure that there are no barriers to the public's right of access to City information, information products provided to the public should not exceed the cost of providing the product, where information products have or could have competition in the open market, user fees should be set to maintain market competitiveness.

The City is required under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) to provide public access to information under the custody or control of the City in accordance with specific legislated requirements. MFIPPA is based on a "user-pays" principle, with specific fees to be charged by the City for the various services involved in providing information accessed under MFIPPA set out in subsection 45(1), and the maximum amounts of these fees prescribed by regulation. Conditions for the waiver of fees are established by subsection 45(1) of MFIPPA.

However, MFIPPA also allows the City to provide information through a regularized system of access where such access is not prohibited by MFIPPA, such as the City's routine disclosure processes. When the information is provided by the Program or Local Board through a regularized system of access such as routine disclosure, the fees for such access are not regulated by MFIPPA, and can be determined by the Program or Local Board in accordance with the User Fee Policy. However, fees for information products provided through routine disclosure should not be so prohibitive as to result in an effective denial of the public's right of

access. As a result, City Programs and Local Boards should not charge for the information they make available to the public, through routine disclosure when it:

- (i) Provides information about an individual's eligibility for a City service.
- (ii) Informs the public about health, environmental or public safety hazards.

Categories of User Fees:

To facilitate the review of user fees and evaluation of cost recovery rates, user fees are categorized based on the following classification:

- a) **Market-Based:** Fees in this category are compared to rates charged by other service providers for the same or similar services to ensure that market competitiveness is maintained.
- b) **Province-Legislated:** Fees in this category are legislated by the Province.
- c) **City Policy:** Fees in this category are determined by City policy and recovers less than the full cost of providing the service.
- d) **Full Cost Recovery:** Fees in this category recover the full cost of providing the service.

Allocating User Fee Revenues:

Revenues generated from user fees must be used to pay for direct and indirect expenses and capital costs incurred to provide the services. Revenues will be allocated to the specific Program or Programs that incurred the costs of providing the user fee; however, any revenues collected for the recovery of capital costs will be contributed to a reserve for purposes of funding the replacement of the capital asset.

In situations where a service is provided by more than one City Program or Local Board, the revenues should be reallocated to the respective Program and/or Local Boards based on the direct and/or indirect costs incurred in providing the service. In effect, user fee revenues should not be available for general expenditure purposes.

Collection Method:

The method used to collect user fees should be simple and efficient in order to reduce the administrative cost charged to the consumers of the service. In essence, every effort must be made to avoid passing on inefficiencies to the paying users of City services.

Service Levels and Standards:

Service levels and standards, and performance measures must be reported to City Council as part of any recommendation to establish a new user fee, or to change an existing user fee, as well as be reported as part of the comprehensive user fee review process at least once during the term of City Council. On a regular basis service levels and standards, and performance

measures relative to each user fee service must be evaluated to confirm their continuing relevance.

Inventory of User Fees:

An inventory of user fees should be maintained and made available to the public. The inventory should be monitored on an ongoing basis and updated annually. At a minimum the inventory should include:

- (i) A description of the service and or activity for which each user fee is assessed.
- (ii) The basis for setting the user fee and the amount of the fee.
- (iii) The category the user fee falls under either market-driven, City policy; legislated or full cost recovery.
- (iv) Whether the fee is adjusted annually for inflation and the cost-recovery percentage.

Periodic Review of User Fees:

A comprehensive review and reporting of user fees should be conducted at least once every four years to coincide with the term of City Council. The review should re-evaluate the assumptions upon which the user fee is based, and should evaluate the degree to which the User Fee Policy is complied with.

The comprehensive user fee review will be coordinated by the Financial Planning Division and will require each Program and Local Boards to review their user fees and present a report to City Council to include:

- List of user fees along with primary beneficiaries of the relevant services;
- Full cost of providing each user fee services;
- User fee revenues generated for each service;
- Indication of whether subsidies are to be provided and why; along with criteria for waiving the fee in whole or in part, if applicable;
- Service levels and standards established to deliver the service as well as actual performance levels that have been reached, and other relevant performance metrics; and,
- User fees should also be reviewed through the annual budget process in order to adjust for inflationary changes and the level or standard of service delivery.

Information Required for Introduction of New User Fees:

When introducing a new user fee outside the annual operating budget process, a staff report is to be prepared and submitted to City Council for requesting approval of the fee. The report to City Council is to include the following:

- Service and user fee description;

- Primary users of the service for which the user fee relates;
- Full cost of providing the service;
- Proposed fee amount or rate;
- Justification for implementation of the proposed fee;
- Percentage of the full cost that will be recovered from the fee, and if less than full cost will be recovered the reasons for doing so;
- Estimated annual revenue that the fee will generate;
- Public consultation undertaken – when and how. Provide a summary of consultation outcomes; and,
- Service levels and standards, and relevant performance measures.