

**Roberto Rossini**  
Deputy City Manager & Chief Financial Officer

Financial Planning  
City Hall, 7th Floor, East Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

Tel: 416-392-8773  
Fax: 416-397-5236  
rossin@toronto.ca  
www.toronto.ca

---

## 2016 OPERATING BUDGET BRIEFING NOTE

### User Fees vs Fines

---

#### Issue/Background:

At its meeting on January 12, 2016, the Budget Committee approved the following budget briefing note request:

*That the Deputy City Manager and Chief Financial Officer provide budget briefing notes on user fees versus fines as user fees can only be cost-recovery:*

- i. What are the rules/policies for creating or increasing City fines for such things as building without a building permit; violating property standards, operating without a business license, illegal dumping, illegal signs, operating an illegal rooming house, destroying protected trees, or installing an illegal parking pad?*
- ii. How much do we collect in fine revenue in addition to parking tag revenue?*

#### Key Points:

- User fees are intended to recover City costs for services and activities provided by the City from those who receive direct benefit from such services and activities.
- Fines are intended to incentivize compliance with City by-laws. They are not intended to recover costs or to generate revenue.

#### Fees:

- User fees are charged by the City under various legislative authorities, either in respect of specific user fees authorized by specific legislation or under the more general authority of Part IX of the *City of Toronto Act, 2006* (COTA). User fees are charged by the City as a fee for a service or activity provided by the City or a charge for the use of City property.
- User fees are generally limited to cost-recovery. When setting the quantum of a user fee, a connection must be made to the cost of providing the services or activity for which the fee is charged. In some case, such as building permit fees, legislation imposes further restrictions such as reporting requirements.
- The intended purpose of user fees is to defray the City's cost of providing a services or activity. The purpose is neither punitive, nor revenue generating.

- In circumstances where City by-laws are contravened, and the City has had to incur additional inspection or enforcement costs, such costs can be recovered through increased user fees. For example, certain property standards violations are subject to additional re-inspection fees if compliance has not been attained following an initial inspection.

***Fines:***

- Fines are intended to penalize contravention of City by-laws and to incentivize compliance. They are not intended to recover costs or to generate revenue. In fact, successfully incentivizing compliance would have the effect of reducing fine revenue.
- Fines are ultimately enforced through prosecution under the *Provincial Offences Act* (the "POA"). The POA sets a maximum fine amount of \$5000 upon conviction of an offence. Other provincial statutes set other maximum fine amounts for conviction of an offence. Section 370 of COTA allows the City to establish a system of fines for offences created for the contravention of City by-laws, and sets the maximum and minimum amounts for such fines where no maximum fine is set by Provincial legislation other than the POA.
- In order for a "ticket" to be issued for the alleged commission of an offence under a City by-law indicating a fine amount payable upon voluntary payment, a set fine must be established. Set fines for violations of City by-laws are established upon request by the City to the Regional Senior Judge for Toronto Region of the Ontario Court of Justice. While the City requests the amount of the set fine, the final decision on the set fine rests with the Regional Senior Judge.
- Upon prosecution of an offence for which a set-fine has been established, the set-fine is no longer relevant. The presiding justice has discretion to assess the appropriate fine.
- Where a City by-law creates an offence for contravention without a set-fine in place, a summons to appear is issued under Part 3 of the POA for the alleged commission of the offence. Where the by-law provides a range of fines for the offence, the presiding justice at trial is guided by the range set out in the by-law. Where no such range exists in the by-law, the presiding justice is guided by the maximum fine set out in the POA. Ultimately, the discretion to assess the appropriate fine rests with the presiding justice.

***Relevant By-Laws in the Municipal Code***

- The following Municipal Code Chapters are under the purview of Toronto Building, Municipal Licensing & Standards and Solid Waste Divisions, and outline offences that may result in fines:

<b>Municipal Code</b>	<b>Description</b>
363	Building Construction & Demolition
447	Fence
480	Garage Sales
485	Graffiti
489	Grass/Weed
569	Zoning bylaw
285	Rooming House
497	Heating bylaw
545	Licensing
548	Litter/illegal dumping
591	Noise
608	Parks
629	Property Standards
693	Signs
694	Signs, General
841	Waste Commercial
844	Waste Residential
835	Vital Signs (heat/water)
846	Waste Transfer Stations

- Details on offences related to the by-laws listed in the table above, are outlined in the Offences section of the appropriate chapter in the Toronto Municipal Code.

#### ***Fine Revenue Collected***

- All fine revenue related to enforcement of City's By-laws and related statutes is collected by the Court Services Division.
- In 2015, Court Services Division collected \$857,000 in by-law fines related to Building Code violations and charges issued by Municipal Licensing & Standards and Solid Waste, with the following breakdown:
  - Building Code: 111 payments, \$107,800
  - Municipal Licensing & Standards: 2,455 payments, \$522,200
  - Solid Waste: 241 payments, \$227,000

---

**Prepared by:** Anna Chablinskaia, Sr. Financial Planning Analyst, Financial Planning Division,  
(416)397-4532, [achabli@toronto.ca](mailto:achabli@toronto.ca)

Christina Hueniken, Solicitor, Legal Services, (416)392-6160,  
[chuenike@toronto.ca](mailto:chuenike@toronto.ca)

**Further information:** Roberto Rossini, Deputy City Manager & Chief Financial Officer  
(416) 392-8773, [rrossini@toronto.ca](mailto:rrossini@toronto.ca)

Josie La Vita, Executive Director, Financial Planning, (416) 397-4229,  
[jlavita@toronto.ca](mailto:jlavita@toronto.ca)

**Date:** January 14, 2015