



**STAFF REPORT
ACTION REQUIRED**

User Fee for Administration of Ministry of the Environment's Municipal Drinking Water Licensing Program

Date:	April 30, 2010
To:	Public Works and Infrastructure Committee
From:	Executive Director, Technical Services
Wards:	All
Reference Number:	P:\2010\ClusterB\TEC\PW10028 (AFS #11339)

SUMMARY

The purpose of this report is to seek authority from City Council to implement a new user fee to recover the cost to the City of conducting technical reviews of drinking water works required under the new Provincial Municipal Drinking Water Licensing Program ("Licensing Program") and for administration of the Licensing Program.

The provincial government is changing the way drinking water systems are regulated in Ontario, as a result of Justice O'Connor's *Report of the Walkerton Inquiry*. The recommendations include the Ministry of Environment ("MOE") replacing the current Certificate of Approval Program (and the concurrent Transfer of Review Program) with a new Licensing Program under the *Safe Drinking Water Act*.

When the new Licensing Program came into effect (upon the issuance of the City's first Drinking Water Works Permit and Licence on February 17, 2010), the City was required to undertake reviews of proposed drinking water works, similar to the review it currently performs on behalf of the MOE under the MOE's Transfer of Review Program ("TORP"). However, because of changes to provincial legislation, the City will no longer be able to collect the fee set by the MOE for this service. It is therefore necessary for the City to implement a new user fee to replace the current fee and ensure continued cost recovery.

RECOMMENDATIONS

The Executive Director of Technical Services recommends that:

1. City Council implement a new user fee, effective immediately, to recover the cost of administration and conducting technical reviews undertaken by the City in accordance with the Municipal Drinking Water Licensing Program, mandated by Ontario's Safe Water Drinking Act, such fee being set at \$2300.00 per application for all applications for establishing or alteration of the City of Toronto drinking water system, and further that the current fee for such applications, which the City is no longer entitled to charge due to changes to provincial law, be repealed.
2. City Council amend Municipal Code Chapter 441, Fees and Charges, to give effect to these fee changes, and grant authority for the introduction of the necessary bills.

Implementation Points

Existing processes for reviewing applications for approval and charging fees will be followed and administered by the Technical Services' work unit currently administering the Ministry of the Environment's Transfer of Review Program.

Financial Impact

The proposed new service fee will generate an estimated \$160,000 in fees on an annual basis to Technical Services.

Since amalgamation, Toronto Water projects were not charged a fee under the current Transfer of Review Program. However, fees were charged from the Toronto Transit Commission, the Toronto Waterfront Revitalization Corporation, the Toronto Community Housing Corporation, and the Toronto District Heating Corporation. On average, one application of this type was received per year generating fees at the set rate of \$1,200 per application.

Approximately \$45,000 of the \$160,000 will be from private proponents. This amount compares with the average annual amount of \$23,000 received under the current Transfer of Review Program resulting in a net increase of \$22,000 to the City.

The remaining \$115,000 in additional revenue will be generated from fees charged to other City Divisions, Agencies, Boards, and Commissions, which will accommodate these additional costs within their approved capital budgets.

The amount of the recommended new service fee is sufficient to recover the cost to the City of administering the new Licensing Program.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Council has previously adopted two reports authorizing staff to undertake actions required to ensure City compliance with the new provincial Licensing Program.

City Council, at its meeting on July 16, 17, 18, and 19, 2007, adopted the recommendations from report PW7.9 (June 13, 2007) without amendment authorizing the designation of the General Manager of Toronto Water as the Owner Representative for the Toronto Water Quality Management System.

City Council, at its meeting on November 30, 2009 adopted the recommendations from report PW28.11 (October 19, 2009) without amendment authorizing signing authority for the Municipal Drinking Water Licensing Program.

ISSUE BACKGROUND

The proclamation of section 33 of Ontario's *Safe Drinking Water Act* in May 2007 began the transition from the MOE's Certificate of Approval Program to the new Licensing Program. The changes to the approvals program address recommendations from Justice O'Connor's *Report of the Walkerton Inquiry*. The corresponding review of sewage works applications will not be affected by this new program.

Approvals for Future Alterations

The MOE ceased issuing of Certificates of Approval under Part V of the *Safe Drinking Water Act* with the issuance of the first Municipal Drinking Water Permit dated February 12, 2010 and Drinking Water Works Licence dated February 17, 2010 for the City of Toronto Drinking Water System. Approvals for all future alterations to the drinking water system are now being processed in accordance with the new Licensing Program.

Review Fees

The current fee structure for water works approvals is a flat fee per application established in accordance with the Minister's Order for Drinking Water Approval Fees issued under Ontario Regulation 364/98, made under the *Ontario Water Resources Act*. In addition to being collected by the MOE for direct submission applications, the review fees are also collected by Transfer Agents, including the City of Toronto, under the Transfer of Review Program for certain types of applications which the Ministry considers 'less environmentally sensitive'. The current fee schedule consists of an administrating processing component in an amount of \$200 common to all applications plus a facility specific component which, for watermains and appurtenances, is \$1000. The total flat rate fee per water works application is \$1200.00.

The Transfer of Review Program will cease to apply to the City of Toronto Drinking Water System once the first Municipal Drinking Water Licence and Drinking Water Works Permit are issued. Consequently, the City's right under the TORP to collect fees for reviews and applications for approval will end. However, the City will have to continue to conduct a review to support compliance with the new Licensing Program.

Staff is therefore proposing to establish a new fee for this service, which will be \$2300.00 per application.

The review fee will also be charged to City Divisions, Agencies, Boards and Commissions when these entities submit applications for the establishment or alteration of the City of Toronto drinking water system for review. This is similar to the current practice for other applications reviewed by the City on behalf of the MOE to ensure compliance with provincial regulatory requirements.

From January 1, 2000 to December 31, 2009, approximately 63% of the watermain applications reviewed under the TORP was for work under the City's Capital Works Program while 37% was for work by private developers

COMMENTS

Under the current Transfer of Review Program, the City processed and reviewed one hundred and ninety-one (191) watermain applications from external proponents from January 1, 2000 to December 31, 2009. In total five hundred and fifteen (515) watermain applications were reviewed from both internal and external proponents. Based on the Ministry's current flat rate fee schedule of \$1200 per application plus the two amendment application at a rate of \$800, the applications where fees were charged totalled \$228,400, or an average of \$23,000 per year.

The purpose of the current review fee is to allow the review authority (whether the MOE or a participating municipality under the TORP) to recoup costs incurred in processing the applications. Under the new Licensing Program, the Ontario regulation that permits municipalities to collect the provincial fee for review of drinking water works will no longer apply. However, under the new Licensing Program the municipality will still be required to perform a quality assurance review to ensure compliance with the Ministry of the Environment's 'Design Standard' similar to the existing guidelines under the Certificate of Approval program. In addition, the municipality will also be required to track the verification forms and update drawings to reflect the changes made to the drinking water system after the initial drinking water license is issued. These documents shall be made available to the Ministry upon their request and retained by the municipality.

For these reasons, it is recommended that the City of Toronto introduce a new fee for the review of proposals from proponents that will be modifying the City of Toronto drinking water system.

Staff recommends setting a flat-rate fee based on the average application for the following reasons:

1. To provide proponents with cost certainty before submitting an application.
2. To minimize staff time in performing accounting and administrative functions.
3. To maximize staff time for performing the technical review of applications.

In consideration of the above, and the need to identify a new sustainable funding mechanism to administrate the new Municipal Drinking Water Licensing Program, Technical Services is proposing the introduction of a user fee for the administration of the program effective upon the commencement of the Municipal Drinking Water Licensing Program and set at the following levels:

In consideration of the above, and the need to identify a new sustainable funding mechanism to administrate the new Municipal Drinking Water Licensing Program, Technical Services is proposing the introduction of a user fee for the administration of the program effective immediately and set at a level of \$2300.00 per application. Staff has determined that this amount adequately reflects the cost in Staff time of providing this service and therefore permits full cost-recovery to the City for administrating this Program.

The fee has been set at a level of \$2300.00 per application, as Staff has determined that this amount adequately reflects the cost in Staff time of providing this service and therefore permits full cost-recovery to the City for administering this Program.

Implementation and Notice Provisions

On Council's approval of this report, a by-law will be introduced to implement the new user fees in the Municipal Code Chapter 441, Fees and Charges.

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SIGNATURE

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