



STAFF REPORT ACTION REQUIRED

Implementation of measures related to Ombudsman's report: "Water Works: An Investigation into Water Billing, Metering and Customer Service"

Date:	May 28, 2012
To:	City Council
From:	City Manager Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	

SUMMARY

This report identifies the measures being undertaken to respond to recommendations contained in the April 2012 Ombudsman's report: "Water Works: An Investigation into Water Billing, Metering and Customer Service". These measures include proposed amendments to the City of Toronto Municipal Code to address circumstances identified in the Ombudsman's report surrounding unexplained high water billings, and criteria for making adjustments to billings where warranted.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommends that:

1. Council approve amendments to Chapter 849 of the City of Toronto Municipal Code, *Water and Sewage Services and Utility Bill*, to allow for a one-time adjustment to a residential water customer's utility bill for the affected billing period to reflect an amount based on historical average consumption for the same or a similar property during a similar period of time, where:
 - a. the Treasurer has determined that a customer has experienced an unexplained consumption increase and meets the eligibility criteria as defined and set out, respectively, in the draft by-law attached as Attachment 1 to this report; or

- b. the Treasurer has determined that a customer meets the definition of a low-income person and has experienced an uncontrollable consumption increase and meets the eligibility criteria as defined and set out, respectively, in the draft by-law attached as Attachment 1 to this report.
2. Council grant authority to the City Solicitor to submit any bills required to enact the amendments to Municipal Code Chapter 849, Water and Sewage Services and Utility Bill, proposed in Attachment 1 of this Report, subject to any necessary refinements, including stylistic, format and organization, as may be identified by and considered appropriate to the City Solicitor and Deputy City Manager and Chief Financial Officer to give effect thereto.

Implementation Points

Provided Council adopts the recommendations in this report, a bill will be introduced at the next possible meeting of Council to enact the by-law giving effect to Council's recommendations, and in any event, no later than November 1, 2012.

Financial Impact

The recommendations in this report have no immediate financial implications on 2012 approved operating budgets for Toronto Water or Office of the Treasurer - Revenue Services Division. The costs associated with implementing the Ombudsman's recommendations that relate to system or procedural changes, including issuing notifications to water customers advising of large dips or spikes in consumption, and writing to customers after three consecutive estimated readings instead of six, will result in additional expenditures for Office of the Treasurer - Revenue Services Division, primarily in printing and postage costs. For 2012, these costs are estimated at \$15,000 and will be absorbed within the Office of the Treasurer - Revenue Services Division 2012 approved operating budget. Should an increase in budget be required to fund these expenditures for 2013 and future years, this will be identified within the Office of the Treasurer - Revenue Services Division proposed operating budget for 2013 and beyond.

Where a customer has experienced an unexplained consumption increase, an adjustment may be applied to the customer's utility account based on the criteria and processes set out in this report. The financial impact for these adjustments is minimal, and the negative impact on annual revenues is not expected to exceed \$25,000.

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

DECISION HISTORY

At its meeting of April 10 and 11, 2012, City Council considered item CC22.5: '*Water Works*' - *An Investigation into Water Billing, Metering and Customer Service*, from the City's Ombudsman. Council adopted the recommendations contained in the Ombudsman's investigation report, including a recommendation to amend Chapter 849 of the Toronto Municipal Code to establish the authority by which Revenue Services may have the discretion on a case-by-case basis, based on established criteria, to adjust the

water account of a customer who has experienced a sudden large increase not explained by a meter test or leak check. Additionally, Council directed the City Manager to:

- a) report to the June 6, 2012 meeting of City Council, with the process, criteria and Municipal Code amendments that will provide the authority and discretion to Revenue Services to adjust water accounts as recommended in the Ombudsman's Investigation Report; and
- b) examine the cases identified in the Ombudsman's Investigation Report, prior to the proposed by-law amendments being considered by Council, to identify whether they meet the proposed criteria, and whether adjustments to these water accounts could be made, subject to enactment of the by-law amendment.

Council's decision, and the Ombudsman's covering report to Council and the full investigation report are available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC22.5>

ISSUE BACKGROUND

In September 2011, the Ombudsman advised the City Manager that she intended to conduct an investigation regarding water meter billing and metering. The investigation was to focus on the City's current procedures for responding to complaints it receives about water bills, and was in response to complaints received by the Ombudsman's office from water customers that had received high water bills, often as a result of an unexplained period of high consumption.

In general, a high water bill can result from a period of increased consumption, an estimated bill that is higher than actual consumption, a catch-up bill following one or more estimated bills, obvious or hidden leaks, a malfunctioning water meter, or water meter relining. The City issues 1.5 million water bills annually and receives fewer than 300 complaints each year about high consumption or billing.

The City responds to complaints about high water consumption or high billing through an investigation involving Revenue Services and Toronto Water to determine how or why consumption increased during the time in question. As part of the City's investigation, the homeowner may have the water meter removed and tested. Many high water billings are often found to be the result of leaking fixtures at a customer's premises, or some other high consumption event.

COMMENTS

The City of Toronto's Ombudsman's report: *Water Works' - An Investigation into Water Billing, Metering and Customer Service*, was released on April 4, 2012 and considered by Council on April 10-11th, 2012. The Ombudsman's report found that, on the whole, Toronto Water's meter system functions well and that Revenue Services receives few complaints relative to the number of accounts it manages, and resolves the bulk of those received.

The report identified seven recommendations aimed at providing additional protections and improved services to Toronto water customers. The recommendations included amendments to the Municipal Code to provide City staff with the authority to adjust water bills in specific circumstances, and where evidence may call into question the accuracy of the recorded consumption, or where financial hardship may result. The City Manager has agreed to implement all of the Ombudsman's recommendations, believing that these measures will provide additional protections and improved services to water customers, while reinforcing the notion that the City of Toronto and its residents and businesses have a shared responsibility to ensure that water is used wisely and conservatively.

Proposed Municipal Code Amendments

Currently, the City of Toronto Municipal Code establishes that a customer is liable for all water provided to a property, including water that may be lost or not consumed (e.g., through leaking fixtures, or taps left running). The Code permits the adjustment of water bills if a meter or City equipment is found to be defective or another error is found, and, in the case where a meter has been tested and found to be recording inaccurately, only to the extent that the meter is inaccurate.

Currently, there are no provisions in the City of Toronto Municipal Code that allow for the adjustment of a water billing to address exceptional cases, i.e., where a high water bill has resulted from a high recording of water consumption and the recording of water consumption cannot be explained or the accuracy of the recorded water consumption cannot be conclusively established, or where the high water consumption was caused by uncontrollable circumstances and a requirement to pay the corresponding bill would create an undue financial hardship for a low income person, in each case as determined by the Treasurer.

Recommendations 1 and 2 of the Ombudsman's report recommend:

1. *That, by June 1, 2012, Revenue Services, in consultation with Toronto Water, develop criteria by which it may identify and address exceptional cases; and*
2. *That the Ombudsman's office receive and review the draft criteria prior to June 1, 2012.*

These recommendations have been implemented. Draft criteria to address high billings due to unexplained consumption increases were provided to the Ombudsman's office on April 2, 2012. A response from the Ombudsman's office was received on April 5, 2012, indicating their concurrence with the draft criteria.

Recommendation 3 of the Ombudsman's report states:

3. *That, by November 1, 2012, the City Manager draft amendments to Chapter 849 of the Toronto Municipal Code to establish the authority by which Revenue Services may have the discretion on a case-by-case basis, based on the criteria, to*

adjust the water account of a customer who has experienced a sudden large increase not explained by a meter test or leak check.

Revenue Services Division, in consultation with Toronto Water and Legal Services, has proposed the following recommended amendments to Chapter 849 of the Toronto Municipal Code (Water and Sewage Services and Utility Bill), as set out in the draft by-law attached to this report (Attachment 1).

a) Unexplained Consumption Increase Adjustment

It is proposed to amend Chapter 849 by adding a definition of "UNEXPLAINED CONSUMPTION INCREASE" and a provision to allow the Treasurer to make an adjustment, on a one-time only basis, to a residential customer's account for a billing period where the Treasurer determines an Unexplained Consumption Increase exists (Please see the draft by-law attached as Attachment 1 to this report for the specific wording of this definition and adjustment).

An unexplained consumption increase adjustment would apply to situations where the Treasurer determines:

- the recorded water consumption during a billing period is at least three times the historical daily average consumption for the property;
- the water meter has been tested and found to be measuring water consumption within prescribed standards for accuracy and free of other defects;
- the cause of the high recorded water consumption increase cannot be reasonably explained to be the result of a leak (whether detected or not) within the customer's private plumbing system whether through a leak check or otherwise; and
- the property is assessed as residential.

Where the Treasurer determines that a customer has been subject to an unexplained consumption increase, as defined in the draft by-law (see Attachment 1), it is proposed that the Treasurer adjust the customer's account, on a one-time only basis, for the subject billing period to reflect an amount based on historical average consumption for the same or a similar property during a similar period of time.

b) Undue Financial Hardship as a Result of Uncontrollable Consumption Increase Adjustment

It is proposed to amend Chapter 849 by adding a definition of "UNCONTROLLABLE CONSUMPTION INCREASE" and a provision to allow the Treasurer to make an adjustment, on a one-time only basis, to a residential customer's account for a billing period where the Treasurer determines an Uncontrollable Consumption Increase exists (Please see the draft by-law attached as Attachment 1 to this report for the specific wording of this definition and adjustment).

An uncontrollable consumption increase adjustment would apply to situations where the Treasurer determines:

- the recorded water consumption during a billing period is at least three times the historical daily average consumption for the property;
- the water meter has been tested and found to be measuring water consumption within prescribed standards for accuracy and free of other defects;
- the cause of the high recorded water consumption increase may be known (such as a leak) but may have been uncontrollable due to the particular circumstances of the customer (such as a disability) and to require payment for the increased water consumed would result in an undue financial hardship to the customer in the circumstances;
- the customer is a low income person; and
- the property is assessed as residential.

Where the Treasurer determines that a low income customer has been subject to an uncontrollable consumption increase which causes undue financial hardship, it is proposed that the Treasurer adjust the customer's account, on a one-time only basis, for the subject billing period to reflect an amount based on historical average consumption for the same or a similar property during a similar period of time.

c) Other Eligibility Criteria

i) Adjustments apply to residential customers only:

The proposed Municipal Code amendments make clear that the recommended authority for adjustments applies only to residential water customers, as described below, as the proposed measures are intended to provide relief to individuals faced with unexplained or uncontrollable consumption increases.

A change to the existing authority to adjust commercial, industrial or multi-residential water accounts is not recommended for the following reasons:

- In commercial, industrial or multi-residential properties, there may be multiple users of water within a business operation, e.g., customers, tenants, employees, etc. With multiple users, it would be impossible for an owner to confirm whether the water was actually consumed, because the property owner cannot exercise control nor have knowledge of all circumstances that might result in high consumption. This would make it impossible to verify circumstances surrounding unexplained or uncontrollable consumption.
- Many commercial, industrial and multi-residential properties are large volume consumers of water, and so receive utility bills monthly, rather than the 3 times per year that most residential customers are billed. With this increased frequency of billing, commercial, industrial and multi-residential property owners are better able to track consumption from month-to-month, and would tend to notice and act upon any unexplained consumption

increases. Many large volume customers also take and submit regular meter readings through their own personnel, and therefore have the ability to track their consumption.

As such, the following definition is proposed for a customer:

CUSTOMER – a person with a water account for which the subject property is classified within the residential property tax class. The proposed definition also makes clear that a customer may include an occupant of the household, so that where an adjustment has been previously granted for a high water bill, another household member cannot apply for a second adjustment.

- ii) **One-time-only basis:**
Adjustments resulting from either an unexplained or uncontrollable consumption increase will only be made once to a customer's utility account.

- iii) **Applications to be made in writing:**
Customers requesting an adjustment under the provisions above must apply in writing to the Treasurer, clearly setting out the basis for the request. The request must include all necessary documentation and information required to substantiate the claim, including written verification from a plumbing contractor, at the customer's cost, that the private plumbing system for the property is free from leaks or other defects that may affect water consumption, where applicable.

These amendments will allow the Treasurer, on a one-time basis, to adjust a residential customer's water bill in situations where, during a billing period, there has been a significant unexplained water consumption increase in a customer's recorded water consumption or where there has been a significant uncontrollable water consumption increase which causes undue hardship to a low income customer.

Recommendations regarding Customer Service

The balance of the Ombudsman's recommendations relate to measures designed to improve protections and enhance customer service for water customers. The status of these recommendations are set out in Table 1 below.

Table 1
Status of Implementation of Recommendations regarding Customer Service

Recommendation	Status
4. That, by November 1, 2012, the Water Meter Program implement a standard by which it notifies customers of consumption spikes and dips in a cost-effective manner.	This will be implemented by November 1, 2012 or before. For those properties equipped with a new water meter under the City's Water Meter Program, automated reports will be generated to monitor consumption and identify any large spikes or dips in consumption. The November implementation date will ensure that the sufficient time is provided to undertake the necessary development and programming to extract this information, and to establish processes to deliver these notifications.
5. That, in all enquiries regarding large unexpected water charges, Revenue Services determine at the outset whether there has been area water main relining work, and inform the customer of those facts.	Complete. The process for confirming whether water main relining activities may have affected a customer's bill, and of informing the customer of results, was incorporated into Revenue Services' customer service procedures in April 2012.
6. That, until the automated system is fully operational, Revenue Services immediately adopt a practice of writing to the customer after three consecutive bills based on estimates to request that s/he provide an actual reading.	Complete. Effective May 25, 2012, Revenue Services' utility billing system was updated to issue notices to customers after 3 consecutive estimated bills. During the week of May 28, 2012, approximately 28,000 customers were sent letters advising that they had had 3 or more consecutive estimates and requesting that they either submit a meter reading or call to request an appointment to have their meter read.
7. That, by November 15, 2012, the City Manager report back to my office on the implementation of these recommendations.	This will be completed by November 15, 2012, or before, once all recommendations have been fully implemented.

Taken together, the implementation of the Ombudsman's recommendations will provide additional protections and improved services to water customers, while reinforcing the notion that the City of Toronto and its residents and businesses have a shared responsibility to ensure that water is used wisely and conservatively. Additionally, Toronto's Water Meter Program, which will see all properties equipped with new automated meters over the next few years, will vastly improve the frequency, accuracy and reliability of water meter readings and the City's ability to respond to the types of problems identified in the Ombudsman's report. Staff of Toronto Water and Revenue Services will continue to consult with the Ombudsman's office as they implement these recommendations.

Case Studies Identified in the Ombudsman's Report

Council, in its consideration of the Ombudsman's report, requested that the City Manager examine the case studies identified in the report to identify whether they meet the

proposed criteria, and whether adjustments to these water accounts could be made, subject to enactment of the by-law amendment.

The Ombudsman's report identified a total of 7 case studies. These case studies, while based on actual facts, were intended to be representative of the types of water billing and metering issues encountered that were reported to the Ombudsman's office. These studies also identify complaints that were identified over a span of several years, and by no means represent all of the cases where customers have been affected by unexplained high water bills.

Based on the criteria and draft by-law provisions identified in this report, of the seven case studies included in the Ombudsman's report:

- Two (2) properties would not qualify for an adjustment to the water account, as one property is commercial, and one is a multi-residential building. The proposed amendments to the Municipal Code are only applicable to residential properties.
- Four (4) properties that are residential may qualify for an adjustment. Where a customer met the definition of "low-income person," an adjustment could be made to their account. A determination of whether these customers would, in fact, meet the definition of a "low-income person" has not been made.
- For the one (1) remaining case study, no adjustment to the account is warranted, as this customer's account was previously adjusted based on the circumstances of the case and existing authority.

In summary, it is possible that up to four of the seven case studies identified in the Ombudsman's report could have been eligible for an adjustment under the criteria and definitions proposed in this report. Generally, however, by-laws are not enacted with a retroactive effective date.

It is not recommended that retroactive adjustments be made to the individual case studies identified in the Ombudsman's report, as these cases represent a small portion of customer accounts that may have been affected by unexplained or uncontrollable consumption increases over past years. Retroactive adjustments to this small group of cases would be unfair to the balance of customers that may have been similarly affected. The Ombudsman's office has been consulted and concurs with this approach.

While the recommended amendments to the Municipal Code are intended to enhance the City's ability to address cases of unexplained high water bills or cases of undue financial hardship for low income customers as a result of uncontrollable circumstances, these provisions must be applied fairly and consistently once enacted, to the benefit of all water customers.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft by-law to Amend City of Toronto Municipal Code Chapter 849,
Water and Sewage Services and Utility Bill