



**STAFF REPORT  
ACTION REQUIRED**

**Construction Hoarding Sign Fees and Public Realm Enhancements**

<b>Date:</b>	June 6, 2014
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	General Manager, Transportation Services
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2014\Cluster B\TRA\Toronto and East York District\ROW\PG2014023.te.row

**SUMMARY**

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Transportation Services, after consultation with Toronto Building, City Planning, Economic Development & Culture, and Financial Planning, is responding to a request from Planning and Growth Management Committee to consider further the introduction of additional fees for the display of advertising signs with First Party Content on construction hoarding, and the potential use of the funds from that fee for enhancements to the public realm related to public art.

A review was completed of the City of Toronto's experience collecting payments or rents for advertising displayed on City property or throughout the city. A new market-based Construction Hoarding Sign in Right-of-way Fee of \$5.60 per month per square metre of construction hoarding signs containing First Party Content is being proposed, effective January 1, 2015, and is to be adjusted annually as part of the operating budget process. It is also proposed that increased revenues from this fee be directed to a reserve fund that will be drawn upon by Arts and Culture Services, Economic Development and Culture Division, for purposes of commissioning, acquiring, and maintaining public art for the public realm across the City.

**RECOMMENDATIONS**

**The General Manager, Transportation Services recommends that:**

1. City Council approve the introduction of a monthly fee for the use of space for the display of a construction hoarding sign on construction hoarding within the public right of way of \$5.60 per month per square metre of construction hoarding signs, effective January 1, 2015 to be adjusted annually as part of the operating budget

process, with increased revenues to be directed to a reserve fund, that will be drawn upon by Arts and Culture Services, Economic Development and Culture Division in the year following collection of the fees, for purposes of commissioning, acquiring, and maintaining new pieces of public art for the public realm across the City.

2. City Council approve amendments to the Guidelines for Covered Walkways so that, whenever hoarding is provided on the public right of way, 50 per cent of the surface area of the hoarding be used for community art, subject to consultation with the Ward Councillor.
3. City Council authorize and direct staff to take the necessary steps to implement the recommendations, including amending any necessary by-laws.

### **Financial Impact**

The recommended monthly fee for the use of space within the public right-of-way for signage with First Party Content being displayed on construction hoarding at a monthly rate of \$5.60 per square metre of signage area, effective January 1, 2015, is anticipated to generate annual operating revenue in the range of \$0.9 million to \$1.8 million for the City, based on the assumption of 5,600 to 11,200 linear metres of construction hoarding in the city containing signage, and assuming that this construction hoarding had a height of 2.4 metres.

Staff will consider and report on the estimated 2015 revenue impact of this monthly fee on the Transportation Services' Operating Budgets as part of the 2015 Operating Budget process. An equivalent expenditure in the form of a contribution to reserve fund will also be considered to ensure actual revenues collected are available for use by Arts and Culture Services in the year following collection of revenues, for enhancements to the public realm.

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

### **DECISION HISTORY**

City Council, at its meeting on April 1, 2, and 3, 2014, when considering item PG31.5, adopted Guidelines for Covered Walkways that require approval by City staff of signage that is to appear on the face of construction hoarding. Community art, subject to the approval of the Ward Councillor, is also required.

Following adoption, City Council requested the General Manager, Transportation Services to report back to the Planning and Growth Management Committee on the feasibility of developing a standard for the amount of space to be allocated to community art, and the proportion of advertising containing First Party Content versus community art that must be provided on construction hoarding.

Planning and Growth Committee, at its meeting on February 27, 2014, when considering item PG31.5, requested the Deputy City Manager, Cluster B, in consultation with the Deputy City Manager and Chief Financial Officer and the City Solicitor, to report to the April 10, 2014 meeting of the Planning and Growth Management Committee on a by-law to provide for an amendment to the existing Hoarding Permit Fee so that the one-time \$16.94 per linear metre cost-recovery fee be applied to blank hoarding only, and that an additional 50% charge be applied for permission to place any writing or graphics on the hoarding.

In addition, The Committee requested that such funds be used to enhance the public realm in cooperation with the Toronto Arts Foundation, the Toronto Arts Council and the various Local Arts Service Organizations; and on the impact of such a by-law; or to submit a report on an alternative method of achieving the same objective, in the event that there is a legal impediment to bringing forward such a by-law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG31.5>

Previously, Planning and Growth Management Committee, at its meeting on November 6, 2012, when considering item PG19.15, requested the Deputy City Manager & Chief Financial Officer to report to the Planning and Growth Management Committee, in conjunction with the report of the Acting General Manager, Transportation Services, on the feasibility and appropriate mechanism to direct any potential funds arising from the temporary use of City property for the display of Construction Hoarding Signs to the purposes of improvements and enhancements to the public right-of-way through local arts initiatives and projects, as administered by the Toronto Arts Council Foundation.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PG19.15>

## **ISSUE BACKGROUND**

Construction staging areas and associated hoarding have a significant visual impact on the nearby community. The provision of graphic images and/or text – either signs or community art – can make the impact less intrusive, dissuades vandalism in the form of graffiti or illegal posterage, and can even beautify the area.

Under Chapter 693, Article III, signage on construction hoarding ("Construction Hoarding Sign") is restricted to the display of a sub-set of messages defined for these purposes as "First Party Content". For purposes of Chapter 693, Article III, "First Party Content" is defined to include the marketing, promoting, or advertising of a business, product, or service available on the property to which the construction hoarding relates. Therefore a Construction Hoarding Sign is limited to advertising messages which it can contain; specifically, to displays which market, promote, or advertise, a business, product or service available on the associated property.

A significant amount of construction hoarding, particularly in the downtown area, is placed temporarily within the public right-of-way as buildings are constructed to the lot line. When this occurs, and advertising signage containing First Party Content as defined by Chapter 693, Article III, is included on the face of the hoarding, public space is being commercialized at a non-market rate.

The City currently issues permits for approximately 112,000 linear metres of construction hoarding to be placed in the public right-of-way each year. These permits are issued one time only, and are subject to the existing Hoarding Permit Fee of \$16.94 per linear metre.

Approximately 5-10% of this construction hoarding contains a Construction Hoarding Sign with First Party Content as regulated in Chapter 693, Article III and defined above. The Construction Hoarding Sign is subject to a further Construction Hoarding Sign Permit Fee of \$6.45 per linear metre. This fee is charged one time, and funds, on a cost-recovery basis, the administration of the regulations relating to the display of a Construction Hoarding Sign.

## **COMMENTS**

### **Amendment to Existing Fees**

As outlined above, the current Hoarding Permit Fee and Construction Hoarding Sign Permit Fee already recover the cost of administering and enforcing the construction hoarding sign program. As such, an increase of 50% in the Hoarding Permit Fee charged at \$16.94 per linear metre, as requested by Planning & Growth Management Committee, would result in a fee which is designed to charge revenue in excess of the cost of the service provided, and would therefore not be permissible under the City's authority to enact fees.

However, the City may charge another fee, that being in the nature of a fee for the on-going use of City property to advertise, which would capture the value of the use of the City's right-of-way for the display of advertising devices with First Party Content on construction hoarding. As the proposed fee is to be charged for the use of the public realm, the revenue derived from this fee can be used for a purpose associated with the enhancement of the public realm. The new fee proposed in this report is recommended to be used to offset such public realm enhancement costs by helping to fund public art.

A summary of existing and proposed fees relating to construction hoarding and staging in the right-of-way is included in Appendix A.

## **New Monthly Fee for Use of Space within the Public Right of Way**

### **Existing City Experience – Third-party Advertising**

The City of Toronto has a broad range of experience collecting payments or rents for third-party advertising displayed on City property. Third-party advertising does not restrict the advertising message to those which relate to business, product, or service available on a specific property, and is therefore less restrictive than the First Party Content requirement imposed for Construction Hoarding Signs. As part of this analysis of third-party advertising experience, staff have reviewed four examples below: the Coordinated Street Furniture Program, Subway Car Advertising 'Wraps', Subway Line Advertising Posters, and Third-party Signs on City Property.

#### Coordinated Street Furniture Program

This is an agreement that the City has with Astral Media for the provision and maintenance of over 10,000 pieces of Street Furniture over 20 years. The maximum amount of advertising space available on street furniture elements is 18,395.00 m<sup>2</sup>. In addition to providing and maintaining the street furniture elements on behalf of the City, Astral Media also agreed to a revenue-sharing agreement of more than \$400 million over the 20 year period (approximately \$14 million dollars annually in 2014 dollars). This results in monthly revenues to the City of approximately \$64.08 per m<sup>2</sup> of advertising space.

#### Subway Car Wraps

In 2001, the TTC signed an agreement with TDI for the placement of subway car 'wraps' (advertising on the outside of subway cars). The agreement was for 12 subway cars, approximately 1,012.21 square metres of advertising space which guaranteed the TTC \$250,000 annually (approximately \$307,000 in 2014 dollars). This would result in monthly revenues (in 2014 dollars) of \$25.26 per m<sup>2</sup> of advertising space.

#### Subway Line Advertising Posters

The advertising space in the five stations along the Sheppard Subway Line (Yonge, Bayview, Bessarion, Leslie and Don Mills) is just over 100 square metres. An agreement with Transportation Displays Incorporated (TDI) was reached in 2001 that would guarantee the TTC more than \$50,000 annually (approximately \$61,260 in 2014 dollars). This would result in monthly revenues to the TTC of \$38.96 per m<sup>2</sup> of advertising space.

#### Third-party Signs on City of Toronto Property

Staff have also examined the City's own experience as a landlord for third-party sign locations. The City of Toronto owns many parcels of land, a number of which have third-party signs located on them. The most common rental arrangements found in reviewing

the City of Toronto lease agreements were rents to be set at either 15% of gross annual revenues for the sign, or 1/12<sup>th</sup> the annual rental value of the sign (approximately 8.3% of gross annual revenues).

Based on a review of the lease agreements for 33 third-party sign faces, the total rental income to the city in 2014 is expected to be approximately \$165,500 with an average annual rent per sign face of \$5,018 or \$22.51 per m<sup>2</sup> of advertising space each month.

### **Staff Recommendation - Monthly Fees for Use of City Property for Advertising Signage on Construction Hoarding**

Based on the City's past experiences, staff recommends that the city adopt a fee for the use of space in the right-of-way for advertising signage with First Party Content being displayed on construction hoarding at a monthly rate of \$5.60 per square metre of signage area (which translates to an annual rate of \$67.20). This amount is based on the City's experience as a landlord for third-party signs; however, it takes into account the fact that the opportunities for Construction Hoarding Signs are significantly more limited than on traditional third-party signage, as a result of the First Party Content requirement imposed by Chapter 693, Article III.

Signs on construction hoarding are only permitted to display sign copy which would be limited largely to identifying the developer and the commercial tenants that will be occupying the development upon completion of the construction. It is staff's opinion that a fee set at 25% of the rent collected for third-party advertising signs on City property accommodates the difference in the market value, due to the limited advertising opportunities, between Construction Hoarding Signs restricted to First Party Content and third-party advertising signs.

Without a detailed inventory of signage on hoarding, it is difficult to do concrete forecasting; however, for the purposes of this analysis, it is assumed that between 5% and 10% of the construction hoarding on the City's right-of-way contains signage. This would represent approximately 5,600 to 11,200 linear metres of construction hoarding containing signage.

Based on this assumption, and assuming that this construction hoarding had a height of 2.4 metres (the minimum height of a covered walkway), it is estimated that this monthly fee for the use of space on the construction hoarding could generate approximately \$0.9 to \$1.8 million dollars in annual revenue to the City.

Table 1 below summarizes the revenue that the City (or one of its agencies) is or has been paid for the four out-of-home advertising programs detailed above and compares them to the proposed annual fee for the use of space within the public right-of-way for signage on hoarding.

**Table 1 – Comparison of the Proposed Monthly Fee for Signage on Construction Hoarding to Annual Revenue/Rents from Various Advertising Agreements**

*(all values adjusted to 2014 dollars using Bank of Canada Inflation Rate)*

	Street Furniture (Third-party)	Subway Car Wraps (Third-party)	Sheppard Subway Line Posters (Third-party)	Rents Charged for Third-party Signs on City Property	Proposed Construction Hoarding Sign in Right-of-Way Fee
Monthly payment per m <sup>2</sup> of advertising space paid to the City	\$64.08	\$25.26	\$38.96	\$22.51	\$5.60
Total m <sup>2</sup> of Advertising Space	18,395 m <sup>2</sup>	1,012 m <sup>2</sup>	131 m <sup>2</sup>	613 m <sup>2</sup> *	26,880 m <sup>2</sup> **
Total annual Revenue to the City	\$14,141,068	\$306,794	\$61,260	\$165,585	\$1,800,000

\* assumes 33 signs at industry standard size of 18.58 m<sup>2</sup> each

\*\* Assumes 11,200 linear metres of hoarding at height of 2.4m displaying signage

The adoption of this proposed monthly Construction Hoarding Sign in Right-of-way Fee would be in addition to all other fees which may be applicable to the site including the Site Protection Permit Application Fee, the Hoarding Permit Fee, the Boulevard Enclosed Fee and the Construction Hoarding Sign Permit Fee.

## Use of Funds

Planning and Growth Management Committee requested that such funds be used to enhance the public realm in cooperation with the Toronto Arts Foundation, the Toronto Arts Council and the various Local Arts Service Organizations. There are existing programmes within the City of Toronto whose objectives include enhancement of the public realm.

Arts and Culture Services works across City divisions and agencies to operate a public art program that includes a diverse range of opportunities for artists and projects. The existing works are situated in city parks, subway stations, on the grounds of municipal buildings and on city streets and add both a historic and artistic element to the urban landscape.

It is recommended that the City's revenue from the recommended Construction Hoarding Sign in Right-of-way Fee be directed to a reserve fund, for use in the year following collection by Arts and Culture Services, Economic Development and Culture Division, for purposes of helping to fund a program of commissioning and acquiring, and maintaining public art within the public realm across the City. A connection can be drawn between the recommended charge for the right to display Construction Hoarding Signs with First Party Content in the public realm and the City's cost of beautification of the public realm through Arts and Culture Services program to commission public art in the public realm.

## **Balancing Advertising and Public Art**

In order to ensure that public art is still displayed as may be required by the Guidelines for Covered Walkways adopted by City Council in April 2014, a balance may need to be struck between the amount of space permitted for advertising, and the amount required for public art. If mural art on construction hoarding is deemed by the local Ward Councillor and/or Community Council to be appropriate and required for any site, then the artwork should cover no less than 50% of the surface area of hoarding that has been installed within the public right-of-way. Because each construction staging area is unique, a standard amount of 50% would ensure that artwork remains visible, significant, and impactful.

## **Required Bylaw Changes**

In order to implement the recommended changes, amendments will be required to one or more of the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of, Article III, Temporary Signs, of Chapter 693, Signs, and Chapter 441, Fees and Charges, to implement a monthly fee for display of a construction hoarding sign on construction hoarding within the public right of way, calculated based on the area (square metres) covered by the construction hoarding sign.

This report was prepared in consultation with staff of Toronto Building, City Planning, Economic Development & Culture, and Financial Planning.

## **CONTACT**

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## **SIGNATURE**

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## **ATTACHMENTS**

Appendix A – Existing and Proposed Fees Relating to Construction Hoarding and Staging in the Right-of-way



**APPENDIX A**

Existing and Proposed Fees Relating to Construction Hoarding and Staging in the Right-of-way

<b>Fee Type</b>	<b>Frequency</b>	<b>Fee Cost for 2014 (exclusive of HST)</b>	<b>Purpose</b>	<b>Use of Funds</b>
<b>Site Protection Permit Application Fee</b>	One-time	Fixed fee of \$501.19 per application	Funds the review of the site protection application and subsequent inspection and enforcement	Cost-recovery
<b>Hoarding Permit Fee</b>	One-time	\$16.94 per linear metre of hoarding on the public right-of-way	Funds the review of the proposed scaffolding, hoarding, fencing, and walkways, as well as subsequent inspection and enforcement	Cost-recovery
<b>Boulevard Enclosed Fee</b>	Monthly	\$5.64 per square metre of public right-of-way that is enclosed within the hoarding	Rental fee for the exclusive use of the public right-of-way for private construction staging	Cost-recovery
<b>Construction Hoarding Sign Permit Fee</b>	One-time	\$6.45 per linear metre of hoarding signage	Funds the review of a proposed Construction Hoarding Sign and subsequent inspection for compliance with municipal requirements	Cost-recovery
<b>PROPOSED: Construction Hoarding Sign in Right-of-way Fee</b>	Monthly	Proposed for 2015 - \$5.60 per square metre of advertising space within the right-of-way	To fund public art in the public realm	Market-based fee for funding City arts programming