

## **Impact of Bill 165 & Gas Utility Use of Public Property in Toronto - Supplementary Report**

**Date:** June 25, 2024

**To:** City Council

**From:** Executive Director, Environment & Climate Division

**Wards:** All

### **SUMMARY**

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This report responds to a request by Infrastructure and Environment Committee for "Decision Advice and Other Information", specifically analysis of staff resources required, timelines, and recommended wording changes to three recommendations from the Committee to Council ([2024.IE14.9](#)). Staff recommend a wording change to one of the three recommendations and have provided further analysis where relevant.

### **FINANCIAL IMPACT**

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There is no financial impact from this report.

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

### **COMMENTS**

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Below is staff analysis on three Committee recommendations from the May 28, 2024, meeting of the Infrastructure and Environment Committee.

#### **Recommendation 1**

**1. City Council request the Minister of Municipal Affairs and Housing to amend O. Reg. 595/06, FEES AND CHARGES, to allow the City to charge gas utilities for their use of public lands as Edmonton, Calgary, Regina and Winnipeg do, in order to fund infrastructure resilience against the impacts of climate change.**

In consultation with Legal Services, please note the following:

Section 8 of O. Reg. 595/06 under the *City of Toronto Act, 2006* ("COTA") states that the City of Toronto and its local boards do not have the power under COTA to impose fees or charges on gas utilities that locate their infrastructure on a municipal highway. Moreover, per Section 266 of COTA, the Ontario Minister of Municipal Affairs is authorized to amend this provision. Section 8 similarly restricts the City's ability to impose fees or charges on electrical utilities that locate their infrastructure on a municipal highway.

The restriction in Section 8 is limited to municipal highways, but the recommendation refers to all public lands. The staff report for IE14.9 indicates that the City can and does impose fees and charges on utilities for the use of City lands other than municipal highways.

Were the Minister to amend O. Reg. 595/06 to remove the Section 8 restriction, Council may want to consider requesting federal legislative amendments that would provide clarity on the scope of the City's authority to impose fees on federally-regulated pipeline companies. Although the *Canadian Energy Regulator Act* does not expressly prohibit imposing on utilities a land-based charge for installations in the public highway, there is some uncertainty on how the Canadian Energy Regulator, a federal Crown corporation responsible for, among other things, approving inter-Provincial gas transmission pipelines, would rule on this issue. It should be noted that according to information provided by the Canadian Energy Regulator, there is minimal presence of federally-regulated natural gas pipelines in Toronto.

## **Recommendation 2**

**2. City Council direct the General Manager, Transportation Services, to report back to Infrastructure and Environment Committee by the fourth quarter of 2024 on whether the current fees charged to gas utilities for pavement degradation resulting from utility cuts fully recover all short and long term related costs and damages incurred by the City.**

Transportation Services is reviewing its utility management processes and consequently does not have available internal resources to meet the requested timeline. Therefore, it is requested that "fourth quarter of 2024" be replaced with "second quarter of 2025".

## **Recommendation 3**

**3. City Council direct the Executive Director, Environment and Climate, to work with Clean Air Partnership and the Association of Municipalities of Ontario to explore a collective municipal approach to ensure a fair payment system for fossil fuel pipelines that use municipal property and how best to ensure a level playing field between fossil fuel and low carbon infrastructure investment, and to report back to Infrastructure and Environment Committee by the second quarter of 2025.**

Staff have engaged with both Clean Air Partnership (CAP) and the Association of Municipalities for Ontario (AMO). AMO has confirmed it is currently not pursuing work on this issue. City staff will continue to engage with AMO on opportunities for

collaboration as it would be appropriate for this type of work to occur within a broader municipal lens beyond the City of Toronto. This report back can be managed within Environment and Climate's existing staff complement for delivery by the second quarter of 2025.

## **CONTACT**

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## **SIGNATURE**

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## **ATTACHMENTS**

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