

CITY OF HAMILTON

**CITY MANAGER'S OFFICE
Audit Services Division**

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: June 10, 2013	
SUBJECT/REPORT NO: Audit Report 2013-03 - Planning & Economic Development (P&ED) - Building Permit Fees (AUD13021) (City Wide)	
SUBMITTED BY: Ann Pekaruk Director, Audit Services City Manager's Office	PREPARED BY: Ann Pekaruk 905-546-2424 x4469
SIGNATURE:	

RECOMMENDATION

- (a) That the Management Action Plans as detailed in Appendix "A" of Report AUD13021 be approved; and
- (b) That the General Manager of Planning & Economic Development be directed to instruct the appropriate staff to have the Management Action Plans (attached as Appendix "A" to Report AUD13021) implemented.

EXECUTIVE SUMMARY

The 2013 Internal Audit work plan approved by Council included an audit of Building Permit Fees. The Building Code Act authorizes Council to set and collect building permit fees which do not exceed the costs incurred to administer and enforce the Act. The review assessed compliance with legislative requirements and City policies and procedures for charging, collecting and reporting on building permit fees. Activity in the Building Permit Revenue Stabilization Reserve was also examined along with controls over the processing and handling of the fees.

The results of the audit are presented in a formal Audit Report (2013-03) containing observations, recommendations and management responses. In addition, an Addendum was prepared which identified issues, risks or inefficiencies (not necessarily control deficiencies which appear in the main report) to which management has been also asked to respond. Audit Report 2013-03 is attached as Appendix "A" to Report AUD13021.

Alternatives for Consideration – Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: The Building Permit Fees Revenue Stabilization Reserve is estimated to exceed the Council approved 150% cap by \$1 million.

Staffing: None.

Legal: Building Services Division is not in compliance with the Ontario Building Code regulations requiring issuance of a timely report to Council of building permit fees collected, related costs and the amount in the Building Permit Revenue Stabilization Reserve.

HISTORICAL BACKGROUND (Chronology of events)

The audit was scheduled as part of the 2013 Internal Audit work plan approved by Council. The audit fieldwork was completed in March 2013. The results of this audit are attached as Appendix "A" of Report AUD13021.

The Audit, Finance and Administration Committee receives and approves final audit and review reports as part of its responsibilities for the oversight of governance and control.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

- Ontario Building Code Act, 1992
- City of Hamilton By-law 08-161 (under the Building Code Act, 1992 respecting permits and related matters)

RELEVANT CONSULTATION

Appendix “A” to Report AUD13021 includes action plans which reflect the responses of management responsible for the administration of building permit fees - Building Services Division, Planning & Economic Development Department.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The Ontario Building Code Act enables municipalities to pass by-laws pertaining to the issuance of permits and the collection of sufficient information from applicants to determine compliance with the Act and applicable laws. The purpose of the Act is to provide for the safety and health of the public at large through compliant construction and demolition and to charge fees not exceeding the full costs to administer and enforce the Act.

Building fees collected in 2012 totalled more than \$11.2 million. The Building Permit Revenue Stabilization Reserve was estimated at approximately \$13.3 million as at December 31, 2012.

A formal Audit Report (2013-03) containing observations, recommendations and resulting management action plans was issued. Six recommendations were included in Audit Report 2013-03 and the corresponding Addendum (attached as Appendix “A” of Report AUD13021). Among the recommendations are:

- Reporting building permit fees, the associated costs and the status of the Building Permit Revenue Stabilization Reserve for a 12 month period to Council within three subsequent months;
- Storing the Moneris Point of Sale administrator card in a more secure location to meet PCIDSS requirements;
- Writing and implementing procedures for processing building permit fees;
- Stamping permit applications with a receipt date; and
- Ensuring the adequacy of documentation to support refunds.

Management disagreed with one recommendation pertaining to reducing the excess in the Building Permit Revenue Stabilization Reserve to the level directed by Council. Specific action plans can be found in the attached Audit Report 2013-03.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Not applicable.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES / SCHEDULES

Appendix "A" to Report AUD13021

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**CITY OF HAMILTON
INTERNAL AUDIT REPORT 2013-03
PLANNING & ECONOMIC DEVELOPMENT (P&ED) – BUILDING PERMIT FEES**

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
1.	<p><u>Reporting on Fees and Costs</u> The Ontario Building Code regulations require the issuance, within three months, of a report indicating the amount of building permit fees collected during the previous 12 month period and the corresponding expenses.</p> <p>The building fees collected during the 12 month period of 2011 (January to December), the related costs and the status of the Building Permit Revenue Stabilization Reserve were not reported to Council until June 5, 2012. As a result, the reporting was not in compliance with the Ontario Building Code.</p>	<p>That the building permit fees, the associated costs and the status of the Building Permit Revenue Stabilization Reserve for a 12 month period be reported to Council within the three subsequent months, as per the Ontario Building Code.</p>	<p>Agreed in principle. However, the Building Division is restrained by the schedule of a Council driven budget approval. Attempts are being made to get the budget numbers earlier in order to complete this report within the first three months. If we are unable to get this information earlier, the Ministry may possibly be approached.</p>

P&ED – BUILDING PERMIT FEES
March 2013

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
2.	<p><u>Building Permit Revenue Stabilization Reserve</u> As approved by Council, the Building Permit Revenue Stabilization Reserve is not to exceed 1.5 times (150%) the yearly operating budget of the Building Services Division. The Reserve is used during economic downturns when permit fee revenue is lower than projected and to fund one-time expenditures that will increase productivity and improve service levels. If the Reserve exceeds 150%, the City is required to undertake a review of the permit fee structure to either reduce the permit fees or provide refunds to permit applicants.</p> <p>The Reserve has been increasing dollar and percentage wise steadily over the past few years. In 2010, it was 97% of the operating budget; in 2011, it was 126%; and in 2012, using unaudited final numbers, it is expected to be 163%. The 2012 Reserve has amounted to approximately \$12.2 million and is estimated to exceed the 150% cap by \$1 million.</p>	<p>That management prepare a report to Council outlining ways to reduce the excess in the Building Permit Revenue Stabilization Reserve to the level approved by Council.</p>	<p>Disagreed. Our action plan is to increase the value of the reserve. At the present time, there are municipalities that have a 200% limit or some that have no cap at all.</p> <p>F&A have been directed to do a report on all reserves. The Building Division is slated for 2014 and will be working with F&A to come up with options.</p>

**P&ED – BUILDING PERMIT FEES
March 2013**

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
3.	<p><u>Protection of Cardholder Data</u> The City must demonstrate compliance with Payment Card Industry (PCI) Data Security Standards (DSS) which address the handling of credit cardholder information. The Moneris point of sale administrator card, which can be used to generate reports that contain the Primary Account Number (PAN) and other cardholder data (i.e. cardholder name and expiry date), is stored in the cash box in an unlocked cabinet behind the front desk. The card can be accessed by unauthorized staff in Building Services.</p>	<p>That the Moneris POS administrator card be stored in a more restricted location to limit the ability to access sensitive information from point-of-sales (POS) terminals.</p>	<p>Agreed. The Building Division staff does not use this card it is used by Finance and Administration (F&A) staff. Therefore, the card has been given to F&A for their safe keeping. The Building Division has only kept a backup card which is kept locked in the Manager's office.</p>

P&ED – BUILDING PERMIT FEES
March 2013

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
4.	<p><u>Written Procedures</u> Building Services has not developed written formal procedures to guide their staff in performing the various duties associated with building fee applications, the collection of permit fees and the issuance of refunds.</p> <p>When written procedures do not exist, employees currently carrying out the process rely on personal understanding and experience which could result in incorrect, incomplete or inconsistent application. It would also be problematic and inefficient for a successor to commence his/her duties within a short period of time.</p>	<p>That procedures pertaining to the various duties carried out by Building Services' staff in processing building permit fees be written and distributed to appropriate staff.</p>	<p>Agreed. The Building Division is presently undertaking a total review of all existing policies and procedures as well as determining which procedures need to be written. Procedures for building permit fees have been added to the action plan to complete by Q4 2013.</p>

**CITY OF HAMILTON
INTERNAL AUDIT REPORT 2013-03
PLANNING & ECONOMIC DEVELOPMENT (P&ED) – BUILDING PERMIT FEES**

ADDENDUM

The following items were noted during the course of the audit. Although they do not present internal control deficiencies, they are indicated in this Addendum so management is aware of the issues and can address them appropriately.

Building Permit Fees Charged

1. Of the seven sampled building fee applications dated by the builder in December, 2012 but processed through the Point of Sale (POS) register in January, 2013, three did not have a received date stamp, as required. Management stated that due to a marked increase in December applications as a result of an announced January, 2013 fee increase, the processing of these applications through the POS was delayed until January, 2013. However, without the date being stamped on the application, there is no way to confirm the actual submission date or if the correct fee was charged in the case of a fee increase.

It is recommended:

That all building permit applications be date stamped when received.

Management Response:

Agreed. We will ensure that staff is given updated training to ensure that they are using the date stamp machine. On February 20th, 2013 an e-mail was sent to staff attaching a copy of the procedure dated June 5th, 2012 and reminding them that applications should not leave the front counter unless they are stamped. Further, the stamp must be applied to all applications with NO EXCEPTIONS.

Refunds

2. The Chief Building Official shall determine the amount of fees, if any, to be refunded to the permit holder upon written request of the permit holder. The refund is usually the original building permit fee less costs already incurred by staff. The letter is provided to the permit holder explaining the amount of the refund.

Seven refunds were reviewed. Complete documentation supporting the building permit fee refunds was not included in the cheque requisition packages. Two packages did not include the letter from the permit holder requesting a refund and three of the packages did not contain the letter explaining the amount of the refund. The missing documentation makes it difficult to validate the refund.

It is recommended:

That all building permit fee refunds be supported by a letter requesting the refund and an explanation for the amount of the refund.

P&ED – BUILDING PERMIT FEES
March 2013
ADDENDUM

Management Response:

Agreed. A procedure rectifying the identified concerns will be developed for the refunding of fees. Included in this procedure will be the requirement for a letter requesting the refund. In the interim however, in staff meetings, staff have been reminded that a letter is required and complete notes should be made as to why the refund is being given and the basis for the amount of the refund.