



CITY OF HAMILTON
CITY MANAGER'S OFFICE
 Legal Services Division

and

PUBLIC WORKS DEPARTMENT
 Engineering Services Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 4, 2015
SUBJECT/REPORT NO:	Canada Post: Replacement of Home Delivery with Community Mailboxes (LS15001/PW15008) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lisa Pasternak Solicitor (905) 546-2424, Extension 7292 Lindsay Picone Solicitor (905) 546-2424, Extension 3663 Gary Kirchknopf Senior Project Manager (905) 546-2424, Extension, 7217 Gord McGuire Manager of Geomatics & Corridor Management (905) 546-2424, Extension 2439
SUBMITTED BY:	Janice Atwood-Petkovski City Solicitor Gerry Davis, CMA General Manager Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Mayor, on behalf of Council, write to the Federal Government, namely the Prime Minister and the Minister of Transport, to express its opposition to the elimination of home mail delivery and asking that Canada Post's implementation of community mailboxes be suspended immediately so that:
 - (i) Canada Post can engage in full and meaningful consultation with the City and its residents about the elimination of home mail delivery;

- (ii) the Federal Government can amend the *Mail Receptacles Regulations* under the *Canada Post Corporation Act* to recognize the City's authority to regulate the installation and maintenance of community mailboxes in public roadways;
- (b) That staff be directed to include community mailboxes in a Road Installations By-law (to regulate the installation of infrastructure by utilities and similar entities in City road allowance) which will be considered by the Public Works Committee in the Spring of 2015.
- (c) That a copy of Report LS15001/PW15008, respecting Canada Post: Replacement of Home Delivery with Community Mailboxes, and a copy of Council's final resolution respecting this matter be forwarded to all local MPs and MPPs, the Federation of Canadian Municipalities and the Association of Municipalities of Ontario.

EXECUTIVE SUMMARY

Canada Post under its "5-Point Action Plan" intends to replace all home mail delivery with community mailboxes in municipalities across Canada. In the City of Hamilton, Canada Post is currently proposing over 1,000 community mailbox locations, with installation set to begin in the spring of 2015 within Wards 6, 7, 8 and 9. This report identifies several issues that result from Canada Post's Plan including:

- As described in more detail below, the installation and maintenance of community mailboxes will have significant financial and staffing resources impacts on the City. Substantial staff resources are required to review locational and technical criteria for each individual site. There are also considerable financial resources required for community mailboxes, including but not limited to related infrastructure installation requests and on-going maintenance requirements (for example, streetlight, sign posts and added snow removal). There is also the potential for increased exposure for liability.
- To date, Canada Post has not carried out meaningful consultation with the City or its residents with respect to the installation of community mailboxes in urban centres as a replacement for home mail delivery.
- Canada Post's statutory authority to install community mailboxes is set out in the *Mail Receptacles Regulations* made under the *Canada Post Corporation Act*. This authority is not currently subject to any limitations and does not recognize a municipality's authority to regulate activities in municipally-owned road allowances.

Approval of the recommendations in this report will address these issues:

- Authorizing the Mayor, on behalf of Council, to write to the Federal Government to express the City of Hamilton's opposition to the elimination of home mail delivery and request that the implementation of community mailboxes be halted immediately so that there is meaningful consultation with the City and its residents, and so that

the appropriate regulations can be amended to recognize the City's authority to regulate community mailboxes.

- Authorizing staff to include community mailboxes in a Road Installations By-law, to be considered by Public Works Committee in the spring of 2015, which is intended to regulate the installation of infrastructure by utilities and similar entities in City-owned right-of-way. Staff will provide a technical guide for Canada Post to use during community mailbox siting.

Alternatives for Consideration - See Page 7

FINANCIAL - STAFFING - LEGAL IMPLICATIONS

Financial: The financial implication of replacing home mail delivery with community mailboxes is explained under the "Analysis and Rationale" section of this report - pages 5 and 6 under "Resource impacts on the City".

Staffing: The staffing implication of replacing home mail delivery with community mailboxes is explained under the "Analysis and Rationale" section of this report - pages 5 and 6 under "Resource impacts on the City".

Legal: Canada Post is a Crown Corporation established by the *Canada Post Corporation Act*. The *Mail Receptacles Regulations* under that *Act* provide broad authority for Canada Post to install, erect or relocate in any public place, including a public roadway, any receptacle or device to be used for the collection, delivery or storage of mail. This authority is not subject to any limitations. However, pursuant to the *Municipal Act, 2001*, the City has authority to regulate with respect to public highways and in particular, authority to regulate to ensure the protection of property, the prevention of nuisance, and the health, safety and well-being of its inhabitants. The City's authority can be exercised by means of a by-law so long as community mailboxes are not prohibited and their installation and maintenance are reasonably regulated for municipal purposes.

Two legal proceedings concerning the installation of community mailboxes, both dating from when they were first introduced in the 1980s, have been found:

- In 1986, Napean, Ontario was unsuccessful in its application to reverse Canada Post's newly adopted policy of not extending door-to-door delivery in new growth areas beyond existing letter carrier routes, and, instead, installing community mailboxes. The court found that there was nothing in the *Canada Post Corporation Act* that imposed a duty on Canada Post to provide door-to-door delivery.
- In 1987, Varennes, Quebec was successful in obtaining a temporary injunction when Canada Post ceased talking to the municipality entirely and began installing community mailboxes without any notice. Staff have spoken to Varennes and understand that the installation resumed and the municipality is now serviced by community mailboxes.

HISTORICAL BACKGROUND

SUBJECT: Canada Post: Replacement of Home Delivery with Community Mailboxes (LS15001/PW15008) (City Wide) - Page 4 of 8

Canada Post is a Crown Corporation, operating under the *Canada Post Corporation Act*, and overseen by the Federal Minister of Transport.

On December 11, 2013, Canada Post announced a “5-Point Action Plan” (see https://www.canadapost.ca/cpo/mc/assets/pdf/aboutus/5_en.pdf). The Plan’s first initiative is “community mailboxes”. Over the next five years, Canada Post intends to eliminate all home mail delivery in urban centres, to be replaced by community mailboxes. Several municipalities across Canada have passed resolutions, directed to Canada Post and the Federal Government, expressing concern about community mailboxes.

Canada Post has begun implementation of community mailboxes across Canada and plans to begin new installations of community mailboxes in select areas of Hamilton beginning in the spring of 2015. By letter dated October 3, 2014, staff advised Canada Post that until this report has been considered by the General Issues Committee and Council, staff will decline to comment on the submitted locations.

At its meeting of September 24, 2014, Council passed the following motion:

Whereas Canada Post has announced that it will be changing mail delivery in several communities within Hamilton in 2015 to convert residents from home delivery to community “super” mailboxes (CMB's) in order to cut their labour costs; and

Whereas Canada Post has exclusive jurisdiction over Postal Services in Canada, and Whereas Canada Post has announced that it intends to install community mailboxes within the municipal road allowance on public roadways with Hamilton; and

Whereas pursuant to the Municipal Act the City has authority to regulate with respect to public highways and in particular, authority to regulate to ensure the protection of property, the prevention of nuisance, and the health, safety and well-being of its inhabitants; and

Whereas Canada Post is embarking on a conversion without appropriate criteria being in place to address health and safety concerns, among other issues, of Council and citizens of Hamilton; and

Whereas, Council believes that CMB's are inconvenient and inaccessible, especially for seniors and persons with mobility issues and they are vulnerable to break-ins and theft,

Therefore be it resolved:

That staff provide a report to GIC with respect to options available to the City to prevent installation of community super mailboxes in the City’s road allowances pending agreement with Canada Post on appropriate locational criteria and such other measures as may be necessary to prevent safety hazards, property damage or nuisance, before the installation of community mailboxes by Canada Post proceeds.

In response to Council's direction, this report identifies options available to the City.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

*The Mail Receptacles Regulations under the Canada Post Corporation Act.
The Municipal Act, 2001.*

RELEVANT CONSULTATION

Staff met with Canada Post on October 29, 2014.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Resource impacts on the City

Canada Post has submitted just over 1,000 proposed community mailbox locations within Wards 6, 7, 8 and 9. Canada Post has not provided an estimate of the total number of community mailbox locations in Hamilton, but Corridor Planning staff estimate it to be about 4,000 (with, typically, three mailbox units per community mailbox location).

The installation of community mailboxes raises several of the same concerns as the installation of above-ground plant (e.g. utility boxes) in City-owned right-of-way. There is potential for community mailboxes to conflict with utilities within City streets and rights-of-way, and similar to above-ground utility installations, standards and processes for the design and installation should apply to community mailboxes to ensure that applicable safety criteria, clearances, and separations are adhered to, and that physical space is optimally utilized. Unlike above-ground plant, community mailboxes are not connected to underground infrastructure and no review of this is required. However, they do have significant connection to the aboveground infrastructure such as sidewalks, lighting and bicycle lanes and require review in this respect. Staff will provide a technical guide for Canada Post to use for siting community mailboxes.

At least one to two hours of time is required for the review of each community mailbox location. More time will be required if there are site visits, location changes and/or consultation with other Divisions/Departments. The current staffing level will not be able to review this high number of submissions.

A detailed review of each location, given the large number, would require 1 to 1.5 additional FTEs. Staff levels required to process lower volumes of utility applications are currently 2.5 FTEs. Public engagement is not included in this assessment of the work and concerns would be referred to Canada Post.

In addition, the permit/consent fee for this type of work, installations carried out by utilities and similar entities, is approximately \$522.00 per location, adjusted annually. Canada Post is offering the City \$50.00 per location.

Not only are staff resources required to review submissions, there are other potential City resource impacts, including but not limited to significant ongoing maintenance requirements:

SUBJECT: Canada Post: Replacement of Home Delivery with Community Mailboxes (LS15001/PW15008) (City Wide) - Page 6 of 8

- Installation requests for additional sidewalks where no sidewalks currently exist.
- Installation of additional sidewalk approach ramps for easier access, for persons in wheelchairs or pushing strollers.
- Increased snow clearing responsibilities for adjacent property owners and City crews.
- Installation of additional sign posts, adjacent to community mailboxes for parking regulation changes.
- Reduction in legal parking spaces in some locations.
- Additional streetlight requests to improve visibility to and from community mailbox locations and security at these locations.
- Additional waste container requests around community mailbox locations to prevent litter resulting from “junk” mail.
- Graffiti on and/or vandalism of community mailboxes and adjacent private property.
- Possible bus stop conflicts.
- Interference with cycling traffic - see Appendix A.
- Increased claims against the City for personal injury or property damage associated with community mailboxes.

Recommendation (a) - Writing the Federal Government

(i) Full and Meaningful Consultation

The letter would request that the Federal Minister of Transport, who oversees Canada Post, require Canada Post to revise its Five-point Action Plan, which includes the elimination of home mail delivery, and engage in full and meaningful consultation with stakeholders, including the City and its residents.

Council can request that there be an opportunity for engagement with the City and its residents: an exchange with respect to options short of the elimination of home mail delivery, for example, reducing the frequency of home mail delivery wherever it takes place or maintaining home mail delivery in densely populated urban areas. What has been characterized by Canada Post as consultation about the elimination of home mail delivery has been, by and large, communication to stakeholders about the implementation of community mailboxes. Consultation has been restricted to relatively minor matters such as limiting locations to two or three community mailboxes and choosing the graphic design that will appear on the community mailboxes.

Further, there are a number of issues involving the safety and access for all residents retrieving their mail from community mailboxes that will benefit from full and meaningful consultation.

Canada Post has made some new commitments, for example, undertaking to accommodate elderly and disabled residents by developing a process to provide suitably located receptacles in community mailboxes or home mail delivery. Less detailed commitments have been made to improve snow removal and respond to complaints about the condition of community mailboxes generally - both commitments are limited to the immediate vicinity of community mailboxes.

Other issues have not been addressed at all, for example, how mail delivery will continue to the many residents who live in legal and illegal multi-unit buildings that cannot accommodate a lobby community mailbox. Tenants living in these buildings could lose control of their mail to their landlord or another tenant.

(ii) Amendment of the Mail Receptacles Regulations

The letter can also request amendment of the provision of the *Mail Receptacles Regulations* under the *Canada Post Corporation Act* to recognize the City's authority to regulate community mailboxes.

The *Mail Receptacles Regulations* SOR/83-743 under the *Canada Post Corporation Act* currently provide authority for Canada Post to install community mailboxes on municipally-owned property, without limitation:

3. *The Corporation may install, erect or relocate or cause to be installed, erected or relocated in any public place, including a public roadway, any receptacle or device to be used for the collection, delivery or storage of mail.*

This authority fails to recognize a municipality's primary responsibility for public roads which is significantly impacted by the replacement of home mail delivery with community mailboxes. Further, the elimination of home mail delivery and its replacement with community mailboxes is fundamentally a municipal issue impacting a large number of residents. The *Mail Receptacles Regulations* should include a meaningful role for municipalities, similar to what is provided for in the *Telecommunications Act* (Canada) when dealing with the use of road allowance by telecommunications service providers.

Recommendation (b) - including community mailboxes in a Road Installations By-law

Corridor Management has begun drafting a by-law to update and consolidate current regulation of the activities of utilities and similar entities when they install and maintain their infrastructure in City road allowance. These entities all have authority to use the road allowance for their purposes, but can be regulated by the City in the exercise of that authority. Community mailboxes could be included, based on the following technical standards for installation and maintenance. However, dealing with increased volume of work at current staffing levels would not be possible. Technical standards, for the siting process, are being developed and would be incorporated into the Road Installations By-law.

ALTERNATIVES FOR CONSIDERATION

The City can enter into an agreement with Canada Post with respect to technical standards for installation and maintenance only.

This approach, without a written agreement, has been taken by some municipalities who have supplied Canada Post with technical standards specific to community mailboxes and directed residents to contact Canada Post with any questions they may have without any further municipal involvement in the elimination of home mail delivery.

SUBJECT: Canada Post: Replacement of Home Delivery with Community Mailboxes (LS15001/PW15008) (City Wide) - Page 8 of 8

Staff can be given direction to negotiate an agreement with Canada Post for Council approval that is limited to the technical standards for installation and maintenance. All other concerns about the installation and maintenance of community mailboxes would be left to Canada Post. The City would have to absorb the resource impacts described above.

ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

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

APPENDICES ATTACHED

Appendix A: Hamilton Cycling Committee letter dated December 22, 2014