SUBJECT: POA Collection Fee By-Law (FCS08034) (City Wide)

RECOMMENDATION:

a) That the by-law, attached as Appendix “A” to Report FCS08034, be passed to amend By-law 07-007 to establish new collection agency fees at 10% (corporations), 15.9% (individuals) for debt assigned to the first agency and at 10% (corporations), 30% (individuals) for debt re-assigned to the second agency.

b) That the by-law, attached as Appendix “A” to Report FCS08034, not be given third reading and enactment until Ministry of the Attorney General approval is received.

EXECUTIVE SUMMARY:

The Municipal Act provides the authority to charge the cost of collection agency fees directly to the debtor. In early 2007 Council approved a by-law authorizing the Provincial Offences Court Administration Office (POA) to charge its collection agency fees directly to the debtor. These amounts were 10% for corporations and 15.9% for individuals. Required approval of the Ministry of the Attorney General was also received. In the summer of 2007 the POA office entered into a new contract for collection agency services. The new contract included the services of a second collection agency who will accept reassigned debt at a higher collection fee rate due to the difficulty in collecting older debt. This will necessitate an amendment to the collection fee by-law and Ministry approval.
BACKGROUND:

Outstanding fines that are not collected internally by Provincial Offences Court Administration staff (POA) are referred to collection agencies who charge a fee for their successful collections. Up until 2007 these fees were paid directly from the POA budget. As a cost saving measure, a report was brought to Committee in late 2005 recommending approval of a by-law to allow collection agency fees to be charged directly to the debtor. Ministry of the Attorney General approval was required for the by-law. Ministry approval was not received until December 2006 which created the opportunity to pass the collection fee costs on to the debtor in 2007.

The City issued an RFP for POA collection agency services in 2007. The new contract runs from March 1, 2008 for 1 year with an option to renew for two additional years. Two collection agencies were selected. The first agency accepts assigned debt that has not been collected through internal processes. The already approved fees of 10% and 15.9% are charged by the first collection agency. The second agency accepts reassigned debt at the same 10% rate for corporations but at 30% on individuals. The new higher 30% rate will require an amendment to our by-law as well as Ministry approval.

In order to avoid the necessity of going back to the Ministry of the Attorney General every time we adjust our rates, our letter is asking for approval of a range from 10% to 32% which is the highest range approved by the Ministry to date for other POA sites.

ANALYSIS/RATIONALE:

The process of charging the debtor for the cost of collection agency fees is our most cost effective alternative.

ALTERNATIVES FOR CONSIDERATION:

Charging the debtor for collection agency fees saved $26,200 from April to December 2007. The figure will be higher for the full 12 months in 2008. The only other option of paying the fees directly would have a negative impact on the POA budget.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

There is an estimated financial impact of $35,000 lost annually by not charging the collection fees to the debtor. Section 304 of the Municipal Act allows Council to set and recover costs incurred by the City in using collection agencies. The Provincial Offences Act also requires advance approval by provincial authorities of the collection agency rates charged in relation to Provincial Offences debts. Provincial approval has been given previously for the 10% rate on corporate debt and 15.9% on individual debt in By-law No. 07-007. The draft by-law attached as Appendix “A”, contains a higher rate of 30% for individual debt when the City re-assigns the debt to its second collection
agency. The Ministry of the Attorney General has been asked for approval to cover this higher rate, and the by-law attached as Appendix “A” should not proceed to third reading and enactment unless and until the approval of the Ministry is received.

**POLICIES AFFECTING PROPOSAL:**

There are no policies affected.

**RELEVANT CONSULTATION:**

Legal Services

Ministry of the Attorney General

POA Staff

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☒ Yes ☐ No

Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☐ Yes ☒ No

Economic Well-Being is enhanced. ☒ Yes ☐ No

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☒ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☒ No
CITY OF HAMILTON

BY-LAW NO. 08-

To Provide for Amended Collection Agency Fees

WHEREAS Council desires to provide that the fees charged by registered collection agencies working on behalf of the City be recovered from the debtor as part of the debt, and the City from time to time retains such agencies at reasonable and approved rates for its collection including for fines and costs under the Provincial Offences Act, which requires an amendment to City By-law No. 07-007;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, section 304 allows the recovery of registered collection agency fees at rates approved by Council on debts of the municipality;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. City By-law No. 07-007 is hereby amended by repealing and replacing section 2 with the following;

“2. (1) Subject to subsection (2), the Collection Agency of shall include and recover a collection fee on the City debt assigned, calculated at the following rates:
   
   (a) ten percent (10%) of a debt owed by a corporation; and
   
   (b) fifteen point nine percent (15.9%) of a debt owed by an individual.

   (2) Where the City re-assigns the outstanding debt or part for collection to a second Collection Agency, the second Collection Agency
shall recover a collection fee on the City debt assigned, calculated at the following rates:

(a) ten percent (10%) of a debt owed by a corporation; and
(b) thirty percent (30%) of a debt owed by an individual.”

2. In all other respects City By-law No. 07-007 as amended is confirmed.

3. This by-law comes into force and effect on the date of enactment.

PASSED and ENACTED this __________ day of __________, 2008.

_________________________________________  ________________
MAYOR                                             CLERK