



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management and Planning Division

TO:	Mayor and Members Committee of the Whole
COMMITTEE DATE:	April 29, 2020
SUBJECT/REPORT NO:	Proposed Amendment to the Tariff of Fees for Planning and Engineering Development Applications (City Wide) (PED19015(b))
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Alvin Chan (905) 546-2424 Ext. 2978
SUBMITTED BY:	Tony Sergi Senior Director, Growth Management Planning and Economic Development Department
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department

RECOMMENDATION

- (a) That the 2020 Tariff of Fees for Planning and Engineering Development Applications, attached as Appendix "A" to Report PED19015(b) be approved and incorporated into the User Fees and Charges By-law, effective May 1, 2020;
- (b) That upon written request to the Director of Planning and Chief Planner by the owner / applicant / agent of a Complex Rezoning and / or Site Plan Control Application submitted and deemed complete between January 1, 2020 and May 1, 2020, staff be authorized and directed to refund any fees paid that are higher than the revised fees, provided said request is received prior to July 1, 2020.

EXECUTIVE SUMMARY

On May 9, 2019, the City passed a comprehensive Planning and Development Engineering Tariff of Fees reflective of Council's direction to achieve full activity-based

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cost recovery inclusive of overhead costs for all development application related processing.

However, subsequent to the new Tariff of Fees coming into force and effect, staff have noted some administrative issues as it relates to the intent and administration of the fee schedule. Accordingly, staff propose an amendment to the Tariff of Fees as it relates to Complex Rezoning and Site Plan Control Applications pertaining to the per unit and per block fees. In addition, a clarification of fees regarding Official Plan Amendments and Extensions to Draft Approvals is also requested. Staff recommends:

- establishing a cap as it relates to the residential per unit and non-residential per square metre charges for Complex Rezoning Applications;
- removing the notation regarding a “Vertical Development Cap” for Site Plan Control;
- establishing a “Ground Related Development” residential per unit and non-residential per square metre charge with associated definitions for Site Plan Control;
- clarification regarding the residential per unit and non-residential per square metre charge for Institutional development and for phased developments to ensure that the fee for both Complex Rezoning and Site Plan Control Applications is to be assessed on a per phase of development basis;
- that the in effect Official Plan fee in the Tariff of Fees By-law is for a combined application (i.e. Official Plan Amendment and Rezoning Application) and that the fee for a stand-alone Official Plan Amendment Application is subject to a 25% surcharge to reflect processing costs related to notification, report preparation and statutory requirements; and,
- that the in effect “Extension of a Draft Approved Plan of Subdivision” and “Extension of a Draft Plan of Condominium” fees be switched as they were incorrectly identified at the time of adoption.

It should be noted that the purpose of the fees associated with “Ground Related Developments” under Site Plan Control is to reflect larger scale developments. Staff propose the same fees as that of a Vertical Development.

However, it should be noted that in order to ensure the principle that “growth should pay for growth”; and, that the City recovers the cost to review and process large multi-phased developments that may take multiple years to proceed from conditional approval to final approval, this particular fee will be re-visited in the future.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The financial impact of the proposed changes may require a partial reimbursement of application fees for Complex Rezoning Applications

should a written request be received by the Director of Planning and Chief Planner by July 1, 2020.

As of February 20, 2020, the City has received 17 Complex Rezoning Applications since the Tariff of Fees took effect (May 9, 2019). In review, 12 of 17 applications were subject to the residential per unit and non-residential per square metres charges.

As it relates to the application submitted in 2020, the work to date that has been completed by staff relates primarily to the circulation of the application. They remain in circulation and review; therefore, there is no lost staff time or revenues as result of the recommended reimbursements should the applicant / owners make a written request in the allotted time frame.

The proposed 2020 Planning and Economic Development Department budget was prepared based on the in-effect fee by-law. It was assumed that Complex Rezoning would be for 25 units or less per application; and, as such, the proposed changes to the fee by-law will not affect the Planning and Economic Developments proposed 2020 budget.

The cost to process "Ground Related Developments" will be recovered based on the proposed changes to the fee schedule and the proposed residential per unit and non-residential per square metre charge, subject to the recommended definitions and clarifications.

As noted, this fee will be re-visited in the future to ensure that the City recovers the cost to review and process large multi-phased developments that may take multiple years to proceed from conditional approval to final approval.

Clarification of the applicability and calculation of the residential per unit and non-residential per square metre charge on a per development phase basis and inclusion of Institutional developments will ensure that the principle of "Growth Pays for Growth" is applied to all developments including multi-phased development.

Staffing: This Fee Review reflects the current level of service; no enhancements are proposed.

Legal: Statutory authority to impose a tariff of fees for Planning Applications is granted to the City of Hamilton through Section 69 of the *Planning Act*. Municipalities are required to pass by-laws for the purpose of collecting

fees related to the processing of Planning Applications. No notice is required to be given under the *Planning Act*, however, an applicant may pay the fee under protest and appeal to the Local Planning Area Tribunal (LPAT) formerly the Ontario Municipal Board (OMB).

HISTORICAL BACKGROUND

Effective May 9, 2019, a revised Tariff of Fees By-law was passed by Council to implement the results of the Department's planning and development fee review. Report PED19015(a) contained the results of the fee review along with stakeholder and public consultation on the proposed revised fees.

A new fee was added to Complex Rezoning Applications with respect to applying a residential per unit charge and a non-residential per square metre charge, in order to reflect the time and work required to review larger scale developments.

However, a cap on the residential per unit and non-residential per square metre charge was not included.

With respect to Site Plan Control, clarity is provided with respect to the calculation of the residential per unit and non-residential per square metre charges as it pertains to phased development under the Site Plan Control fee. Additionally, the notation regarding a vertical development cap is proposed to be removed.

For larger scale Ground Related Developments, staff recommend the same residential per unit and a non-residential per square metre charge.

Of note, this fee will be re-visited in the future to ensure the principle of "Growth Pays for Growth" in that the City recovers the cost to review and process large multi-phased developments that may take multiple years to proceed from conditional approval to final approval.

For both Complex Rezoning and Site Plan Control Applications, the non-residential per square metre charge is proposed to apply to Institutional developments such as a nursing homes or retirement homes, based on the proposed number of units.

Moreover, the per unit and per square metre charges are to be applied per phase of the development. Corresponding changes / clarifications for both the Complex Rezoning and Site Plan Control Applications will be required.

Historically, a 25% reduction has been applied to the Official Plan fee for combined applications. This is because there were efficiencies in the work involved in reviewing the submitted materials, notice and preparation of the staff report. For ease of

administration, the 2019 Fee By-law established an Official Plan Amendment that reflected the 25% combined application fee reduction. To clarify matters, it is necessary to revise the note to address stand-alone Official Plan Amendment Applications, and the required 25% fee surcharge to ensure that “Growth Pays for Growth.”

Lastly, as mentioned previously, at the time of adoption of the Tariff of Fees on May 9, 2019, the Draft Plan Extension fee for a Draft Plan of Condominium and Subdivision were inadvertently switched and therefore require amendment.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

This most recent fee analysis was completed by the Growth Management and Planning Division based on information from previous consultation with the Building Division; Transportation Planning and Parking Division; and, Public Works Department - Hamilton Water and Corridor Management.

With respect to public consultation, the development industry identified concerns at Development Industry Liaison Group (“DILG”); and, also individually, as it pertained to there being no upper limit to the Complex Rezoning Fee. The provided presentation was circulated to DILG identifying the proposed amendments to address this concern.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Section 69 of the *Planning Act* allows municipalities to impose fees through by-law for the purpose of processing Planning Applications. In determining the associated fees, the *Planning Act* requires that:

“The Council of a Municipality, by by-law, and a Planning Board, by resolution, may establish a tariff of fees for the processing of applications made in respect of Planning matters, which tariff shall be designed to meet only the anticipated costs to the Municipality or to a Committee of Adjustment or Land Division Committee constituted by the Council of the Municipality or to the Planning Board in respect of the processing of each type of application provided for in the tariff.”

Per By-law No. 19-108, new fee line items were added to the Complex Rezoning Applications with respect to a residential per unit and a non-residential per square metre charges. These line items were added in order to reflect the time and work required to review larger scale developments.

However, it is noted that caps on the residential per unit and non-residential per square metre charges were not included as part of By-law No. 19-108, resulting in inflated and inaccurate fees being required. Accordingly, staff propose the following changes:

Complex Rezoning Applications

- Residential – \$540 per unit charge shall apply after the tenth unit, up to a maximum of 50 additional residential units (i.e. Units 11 to 60, inclusive);
- Industrial – Application base fee plus per square metre charge (\$8 / square metre) up to a maximum of \$60,000;
- Commercial – Application base fee plus per square metre charge (\$8 / square metre) up to a maximum of \$60,000; and,
- Institutional – \$540 per unit charge shall apply after the tenth unit, up to a maximum of 50 additional residential units (i.e. units 11 to 60, inclusive).

Hamilton's neighbourhoods are, by and large, regarded as stable, but not static. These neighbourhoods will see some physical change over time, and will evolve as older residents move out, younger residents and families move in, homes are renovated or rebuilt, infill development occurs, commercial areas are invigorated, or underutilized commercial areas redeveloped. Residential intensification within Neighbourhoods is part of the evolution of a neighbourhood and can happen at a range of scales and densities.

Similarly, residential intensification is a key component of Hamilton's growth strategy and is essential to meet our growth and employment targets. Intensification ensures land, urban services and the transportation network are used more efficiently, and sufficient population is maintained to support existing community facilities.

Successfully accommodating more residents within the existing built-up area reduces the need for development of greenfield lands and urban boundary expansions. Intensification contributes to creating and maintaining vibrant neighbourhoods, nodes and corridors and can provide a wider range of housing types to meet the housing needs of Hamilton's current and future population.

Accordingly, the inclusion of the first ten units within the base fee of the Complex Rezoning Application will encourage and facilitate infill and intensification development. Moreover, by building in the first ten units into the base fee, it also supports a greater variety of development types including, but not limited to, small scale block or street townhouse developments and / or walk-up apartments, known colloquially as the "Missing Middle".

With respect to the capping of Industrial and Commercial per square metre charges at \$60,000, this would facilitate an industrial or commercial building of approximately 80,000 square feet based on the current charge.

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Inclusion of this cap sets a fee that is more representative of, and consistent with, the size and scale of industrial or commercial development proposals.

Additionally, for clarity purposes, staff will include notation whereby the requisite residential per unit and non-residential per square metre charges shall apply to each phase of a development.

Furthermore, a notation will be included with respect to the definition of a unit, whereby any habitable room enclosed by four walls shall be deemed to be a unit, regardless of any Ontario Building Code definitions; and, this charge shall also apply to Institutional development proposals.

In light of the above, the proposed caps and clarifications will ensure that the City achieves full activity-based cost recovery inclusive of overhead costs for Complex Rezoning Application processing.

The proposed amendments will encourage and facilitate intensification in accommodating more residents within the existing built-up area, reducing the need for development of greenfield lands and urban boundary expansions.

It also provides opportunities for infill development, as over time, a neighbourhood will evolve as older residents move out, younger residents and families move in, homes are renovated or rebuilt, infill development occurs, commercial areas are invigorated, or underutilized commercial areas redeveloped.

Lastly, the non-residential charges will ensure a fee reflective of the size and scale of a typical industrial or commercial development proposals.

Site Plan Control Applications

In review of the existing Site Plan Control fees, staff propose the removal of the notation regarding “Vertical Development Cap” of \$35,000, as it is not necessary given these line items already include caps, being a maximum charge up to 50 residential units; 5,000 square metres for Industrial; 50,000 square metres of Commercial.

Of note, there is currently no reference to Institutional uses within the Site Plan Control Application fee structure under the non-residential line item. As such, for clarity purposes, the per unit charge shall apply to Institutional uses with similar notation to that of the Complex Rezoning with respect to the definition of a unit. Any habitable room enclosed by four walls shall be deemed to be a unit, regardless of any Ontario Building Code definitions.

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In order to capture larger scale “Ground Related Developments”, as per the proposed definition below, staff recommend that the same residential per unit charge of \$957 for the first ten units and \$575 for units 11 to 50 be applied.

Similarly, for Non-Residential, staff recommend that the same per square metre charge of \$8.15 per square metre to a maximum of 5,000 m² for industrial and 50,000 m² for commercial be applied for Ground Related Development. In order to facilitate the above, the following definition shall be included as a note under Site Plan Control.

Ground Related Development shall include the following built forms of development:

- Single Detached Dwelling
- Semi-Detached Dwelling;
- Duplex and Triplex;
- Block Townhouse Units including Parcels of Tied Land (POTL's);
- Stacked Townhouse Units;
- Maisonette (back-to-back) Units; and,
- Non-Residential (ICI) Ground Related Developments.

Additionally, for clarity purposes, the requisite residential per unit and non-residential per square metre charges shall now apply to each phase of a development.

As noted above, this fee will be re-visited in the future to ensure the principle of “Growth pays for Growth” in that the City shall recover the cost to review and process large multi-phased developments that may take multiple years to proceed from conditional approval to final approval.

In light of the above, the proposed caps; new fees; and, definitions / clarifications will ensure that the City achieves full activity-based cost recovery inclusive of overhead costs for Site Plan Control Application processing.

Official Plan Amendment Applications

Historically, a 25% reduction has been applied to the Official Plan fee for combined applications. This is because there were efficiencies in the work involved in reviewing the submitted materials, notice and preparation of the staff report.

For ease of administration, the 2019 Fee By-law established an Official Plan Amendment that reflected the 25% combined application fee reduction.

To clarify matters, it is necessary to revise the note for stand-alone Official Plan Amendment Applications, as they are not subject to the 25% discount, and shall

therefore pay the appropriate fee to ensure that “growth pays for growth” with respect to stand-alone Official Plan Amendments.

Draft Plan Extension Applications

The 2019 Fee By-law established incorrect fees with respect to the Extension of a Draft Plan of Subdivision and Draft Plan of Condominium. The two fees were inadvertently switched at the time of adoption; and therefore, necessitate a correction.

ALTERNATIVES FOR CONSIDERATION

With respect to recommendations (a) and (b), Council could maintain the current fees and notations as established under By-law No 19-108. This is not recommended by staff, as the purpose of this most recent fee review was a result of overcharging due to not having appropriate caps and fees which led to inflated and inaccurate fees being required for Complex Rezoning Applications.

In addition, the current development application fees are not reflective of Council’s direction to achieve full activity-based cost recovery inclusive of overhead costs for all development application related processing.

In order to capture larger scale “Ground Related Developments”, staff recommend inclusion of the same residential per unit and non-residential per square metre charge as Vertical Developments.

Lastly, the incorrect stand-alone Official Plan Amendment and Draft Plan Extension fees would remain in place; and, therefore, would not be reflective of Council’s direction to achieve full activity-based cost recovery inclusive of overhead costs for all development application related processing.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Proposed Tariff of Fees for Complex Rezoning and Site Plan Control
Development Applications

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