




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2024
SUBJECT/REPORT NO:	To Establish a New Zoning Verification Report Fee (PED24120) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Emily Coe (905) 546-2424 Ext. 2575
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Report PED24120, to establish a new fee for Zoning Verification Reports, be received;
- (b) That the By-law to amend By-law No. 24-036, being A By-law to Establish Certain 2024 User Fees and Charges for Services, Activities or the Use of Property, and to Repeal By-law No. 23-112, attached as Appendix "B" to Report PED24120, be enacted by Council.

EXECUTIVE SUMMARY

In February of 2024, the City of Hamilton experienced a cyber incident that disabled some of its IT systems, including the AMANDA database and the online application and payment portal for Zoning Verifications and Property Reports. As a result, information typically contained within a Zoning Verification and Property Report could not be determined. Therefore, no Zoning Verification and Property Reports have been issued since the end of February 2024.

Without the service being available, applicants such as lawyers, prospective purchasers, or lessees of properties, and/or applicants who require the certificate for municipal licensing purposes have been unable to confirm information such as if the

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intended/existing use of the property is permitted and if there are any outstanding work orders on the property. Further, Licensing staff have been unable to proceed with issuing municipal licenses in certain instances; and other City staff who rely on the Zoning Verification and Property Reports for confirming the recognized use of a property have not been able to proceed (for example, Economic Development paying out financial incentives related to Community Improvement Plans or Municipal Law Enforcement conducting zoning enforcement with regard to land use).

On June 7, 2024, the Emergency Operations Centre Recovery Table and the Senior Leadership Team endorsed several recommendations relating to resuming the Zoning Verification service, including the direction that staff begin offering a pared-down Zoning Verification which only provides certain information that staff have current and confirmed access to.

As a result of this pared-down Zoning Verification, the application fees are required to be adjusted to reflect the appropriate activity-based costing for this service. The proposed fees are shown in Appendix “A” attached to Report PED24120.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Implementation of the new fee would result in an estimated reduction of \$162,000 in revenue. \$628,000 of the Zoning Examiner staffing costs are currently funded from the general levy and the new fee would result in an increase of approximately \$162,000 to the general levy.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Zoning Verification and Property Report Certificates

Zoning Verification and Property Report certificates historically contained the following information:

- The zoning of a property;
- Applicable site plan applications;
- Applicable Committee of Adjustment applications;
- Whether the proposed use of a property is permitted, not permitted, or recognized as legally established non-conforming;

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- The last recognized use of a property established through the most recently issued building permit;
- If the lands are subject to Conservation Authority approval, have a heritage designation, are within the Niagara Escarpment Commission's Development Control area, require Ministry of Transportation approval, etc.;
- Standard verbiage pertaining to the proposed use for example, the requirement for a building permit, requirement for a municipal licence, etc.;
- Other applicable zoning related information pertaining to the proposed use for example, special setbacks, if a minor variance may be required, etc.;
- If a survey has been provided, confirmation of zoning compliance pertaining to the location of any structures on the lot which are shown on the survey; and,
- Outstanding building permits, Orders to Comply, Stop Work Orders, zoning violations, property standards orders, confirmation of the issuance of any building permits for septic systems, and whether or not a final grading certificate has been received for single detached dwelling properties.

There are four levels of service, each with their own fee, which are dependent on the type of use that the application is for:

- Single and Two Family Dwellings, Townhouses – Regular (issued within 10 business days);
- Single and Two Family Dwellings, Townhouses – Express (issued within 5 business days);
- Non-Residential / Multi-Residential – Regular (issued within 10 business days); and,
- Non-Residential / Multi-Residential - Express (issued within 5 business days).

A breakdown of these fees is attached as Appendix "A" to Report PED24120.

Currently information typically contained within a Zoning Verification and Property Report including the last recognized use of a property, any legally established non-conforming status that a property may enjoy, and information relating to outstanding building permits, work orders and/or violations - cannot be determined. Therefore, the decision to pause the issuance of Zoning Verification and Property Report certificates was made immediately following the cyber incident. There have been no Zoning Verification and Property Report applications reviewed or issued since February 23, 2024.

Impacts of Service Being Unavailable

Zoning Verification and Property Report applications are typically made by lawyers (for mortgage or financing purposes, or real estate transactions), prospective purchasers or

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lessees of a property, and applicants who require the certificate for municipal licensing purposes. Internal Zoning Verification and Property Reports are also completed for other City staff from Municipal Law Enforcement, Economic Development, Fire Prevention, and Housing.

Without the service being available:

- Applicants have been unable to confirm if the intended/existing use of the property is permitted;
- Applicants have been unable to confirm if there are any outstanding work orders on the property;
- Licensing staff have been unable to proceed with issuing municipal licenses in certain instances; and,
- Other City staff who rely on the Zoning Verification and Property Report for confirming the recognized use of a property have not been able to proceed (e.g., Economic Development paying out financial incentives related to Community Improvement Plans or Municipal Law Enforcement conducting zoning enforcement with regard to land use).

Additionally, there may be other legislation that requires a Zoning Verification and Property Report for someone to proceed with a use on a property. For example, the Ministry of Education requires a Zoning Verification and Property Report prior to licensing an individual wanting to operate a Day Nursery. These individuals are also impacted.

Resuming Service

Through the Spring of 2024, Planning staff met with Legal and other City staff on several occasions to discuss:

- What information City staff require to be provided on a Zoning Verification and Property Report to proceed with their work (i.e., issuing licenses, proceeding with enforcement action, proceeding with paying out grants); and,
- Options for resuming the Zoning Verification and Property Report service and the possible format(s) that a Zoning Verification and Property Report could take.

Based on these discussions, staff formulated several options and recommendations for the Emergency Operations Centre Recovery Table and the Senior Leadership Team to consider and endorse. In June of 2024, the Emergency Operations Centre Recovery Table and the Senior Leadership Team endorsed the recommendations relating to resuming the Zoning Verification and Property Report service, as follows:

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- (i) That staff proceed with providing a pared-down Zoning Verification Report which provides only the following information, which staff have current and confirmed access to:
- The zoning of the property and whether or not the proposed use of a property (as indicated by the applicant) is permitted within that zone;
 - The applicable sections of the Zoning By-law applying to the property;
 - Applicable site plan and Committee of Adjustment applications pertaining to the property;
 - If the lands are subject to Conservation Authority approvals, heritage designation, Niagara Escarpment Commission Development Control; and,
 - Other standard verbiage pertaining to the proposed use for example requirement for a building permit, municipal license, etc.;
- (ii) That confirmation of the last recognized use of a property no longer be indicated within a Zoning Verification Report;
- (iii) That if legally established non-conforming status cannot be confirmed for a property, that an applicant be directed to apply for a Zoning Compliance Review application to determine legal non-conforming status; and,
- (iv) That the Divisions responsible for issuing building permits, orders, violations, and final grading certificates assume responsibility for commenting on such through a new application process established through each of their respective Divisions.

As it relates to recommendation (i), an activity-based cost analysis was required to determine the new fee related to the Zoning Verification Report, as this new version of the application will take less time for staff to complete.

It has been determined that there would be two levels of service (Regular and Express) rather than the previous four levels. The proposed fees are \$125 for Regular service (Zoning Verification Report issued within 10 business days) and \$200 for Express service (Zoning Verification Report issued within 5 business days). A comparison of the existing and proposed Zoning Verification fees is attached as Appendix "A" to Report PED24120.

An amendment to By-law No. 24-036 (A By-law to Establish Certain 2024 User Fees and Charges for Services, Activities or the Use of Property and to Repeal By-law No. 23-112) is required to implement the new fees and is attached as Appendix "B" to Report PED24120.

Finance staff have indicated that these new fees would result in an estimated reduction of \$162,000 in revenue. \$628,000 of the Zoning Examiner staffing costs are currently

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funded from the general levy and the new fee would result in an increase of approximately \$162,000 to the general levy.

It should be noted that the resumption of the Zoning Verification Report service will not be implemented until such time that the proposed fees are approved. Zoning Verification Reports for internal staff commenced right away, as a fee is not charged for these applications.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Section 391 (By-laws re: fees and charges) of the *Municipal Act*.

RELEVANT CONSULTATION

Consultation has been undertaken with staff in Licensing, Municipal Law Enforcement, Economic Development, Building, Legal Services, and Finance to determine the impacts of changing the level of information provided within a Zoning Verification Report, any liability issues that may arise from changing the level of information provided, and the impacts of the fee adjustment on the 2024 operating budget and the cost recovery per Full-Time Equivalent staff.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

It is estimated that the review for a pared-down Zoning Verification Report would take approximately 1 - 1.5 hours for a Zoning Examiner to complete. Based on the existing salary schedule and benefits and factoring in overhead costs into this hourly rate, the suggested fee for a Zoning Verification Report is \$125 for regular service (certificate issued within 10 business days) and \$200 for express service (certificate issued within 5 business days).

ALTERNATIVES FOR CONSIDERATION

Council may choose not to approve the reduced fees. The current fees will then incorrectly reflect the activity-based cost required to complete a Zoning Verification Report.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24120 – Existing and Proposed Zoning Verification Fees
Appendix "B" to Report PED24120 – Draft User Fees and Charges for Services, Activities or the Use of Property Amendment

EC:sd