



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 6, 2024
<b>SUBJECT/REPORT NO:</b>	Zoning Compliance Review - Application Fees (PED24129) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Emily Coe (905) 546-2424 Ext. 2575
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Report PED24129, to establish new fees for Zoning Compliance Review applications, 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 “A” to Report PED24129, be enacted by Council.

**EXECUTIVE SUMMARY**

Zoning Compliance Review applications are completed by the Zoning Review team within the Zoning & Committee of Adjustment Section for several different purposes, including:

- Applicable Law Review (general review for zoning compliance);
- Clearance of Zoning conditions for Consent applications;
- Determination of a Legally Established Non-Conforming Use;
- In support of a Building Permit application;
- In support of a Minor Variance application;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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- In support of a Site Plan Control application; and,
- In support of a Zoning By-law Amendment application.

Since the Zoning Compliance Review service was established in 2009, one flat fee, the “Applicable Law Review” fee within By-law No. 23-240, a By-law to Amend By-law No. 15-058, A By-law Respecting Building Permits and Related Matters, has been applied to every subtype of the Zoning Compliance Review application. The current 2024 fee is \$277. Some of the subtypes take longer to review than others; therefore, the current flat fee does not reflect the appropriate activity-based costing.

Additionally, there is currently no fee charged for subsequent revisions to a Zoning Compliance Review application, even though the review of these revisions may take staff additional time to complete. At present, unless a full new Zoning review is required (i.e., the proposal undergoes a complete re-design), a fee is not charged for the revision of a Zoning Compliance Review application.

A review has been undertaken to establish new application fees based on the subtype of Zoning Compliance Review. A flat fee for the revision of a Zoning Compliance Review application is also proposed. The proposed fees are found in Appendix “A” attached to Report PED24129.

**Alternatives for Consideration – See Page 5**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Implementation of the new fees would result in an increase of approximately \$72,000 annually in revenue.

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

In 2009, the Zoning Compliance Review application (then known as an Applicable Law Review application) was introduced as a way for customers to determine zoning compliance prior to a formal application for building permit. As the Zoning Section was located within the Building Division at the time, the Applicable Law Review fee within the yearly amendment of By-law No. 08-161 (and subsequently By-law No. 15-058), which were/are By-laws Respecting Building Permits and Related Matters, was utilized for this service.

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Over the years, the Zoning Compliance Review grew to encompass other Zoning-related reviews, including the clearance of Zoning-related Consent application conditions, and as a means for an applicant to confirm the legally established non-conforming status of a property. These different types of reviews took differing lengths of time to complete than the original Applicable Law Review subtype, yet the fee for the Zoning Compliance Review application remained the same and only increased along with all other fees in the yearly amendments to the By-law Respecting Building Permits and Related Matters.

In 2022, Bill 109 (*More Homes for Everyone Act, 2022*) received royal assent. This Act required that the municipality make a decision on certain *Planning Act* applications within a prescribed amount of time, or the municipality would be required to refund all or a portion of the application fee. Given the tight timelines around circulation of these files for comment, the decision was made to have the zoning review conducted by way of a Zoning Compliance Review application prior to formal submission of the applicable *Planning Act* application. Subsequently, two new subtypes were added to the Zoning Compliance Review application: “In support of a Site Plan application” and “In support of a Zoning By-law Amendment application”. Again, these subtypes take varying amounts of time to review; in particular, the Zoning By-law Amendment review can be quite complex and may require more hours of dedicated staff review time than other subtypes of the Zoning Compliance Review application.

In 2022, Bill 23 (*More Homes Built Faster Act, 2022*) also received royal assent. Through this Act, Site Plan Control was removed from parcels of land containing 10 residential units or less. Through discussions with the Building Division, it was determined that a Zoning Compliance Review application would be required prior to application for a building permit for properties which were formerly subject to Site Plan Control but were no longer, due to Bill 23. Thus, the “In support of a Building Permit application” subtype was added to the Zoning Compliance Review application.

At the same time, the option for applicants to apply for a Zoning Compliance Review in advance of a Minor Variance application was also added as a new subtype to accommodate proposed future changes to the zoning review portion of the Minor Variance process.

As the discussions for the 2025 budget process began in the summer of 2024, it was decided that the Zoning Compliance Review fees should be appropriately adjusted to reflect the true activity-based costing of each subtype, rather than one flat fee applying to the entire application given the additional subtypes of Zoning Compliance Review that have been added over the past few years.

It should be noted that this application is separate and distinct from the Zoning Verification Report process. The Zoning Verification Report process simply confirms if a

specific use or uses are permitted on a property, whereas the Zoning Compliance Review application is a comprehensive review of any and all zoning regulations on a property. A new process and fee for the Zoning Verification Report application was recently approved by Council through Report PED24120.

Further, there is a separate fee for a Property Report contained within By-law No. 12-182 (Tariff of Fees) which will be utilized to prepare Property Reports addressing any outstanding Building Division-related work orders applying to a property.

## **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 Zoning Review and Finance to determine the appropriate activity-based costing for each subtype of the Zoning Compliance Review application, as well as to determine the increase in revenue due to the proposed change in fees.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

On average, it is estimated that the review of each subtype of a Zoning Compliance Review application takes the following time to complete:

Applicable Law Review:	7 hours
Clearance of Zoning Conditions for Consent applications:	2 hours
Determination of a Legally Established Non-Conforming Use:	12 hours
In support of a Building Permit application:	7 hours
In support of a Minor Variance application:	7 hours
In support of a Site Plan Control application:	7 hours
In support of a Zoning By-law Amendment application:	9 hours

The review of a revision of a Zoning Compliance Review takes, on average, 3.5 hours to complete.

Based on a review of the activity-based costing, the proposed fees for each subtype, as well as the revision of a Zoning Compliance Review application are proposed as follows:

Applicable Law review:	\$490
Clearance of Zoning conditions for consent applications:	\$140
Determination of a Legally Established Non-Conforming Use:	\$840

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In support of a Building Permit application:	\$490
In support of a Minor Variance application:	\$490
In support of a Site Plan Control application:	\$490
In support of a Zoning By-law Amendment application:	\$630
Revision to a Zoning Compliance Review application:	\$245

To establish the new fees, an amendment to 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 is required, and is attached as Appendix "A" to Report PED24129.

**ALTERNATIVES FOR CONSIDERATION**

Council may choose not to approve the new fee structure. The current fee will not reflect the activity-based cost required to complete each subtype of a Zoning Compliance Review application.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24129 – Draft User Fees and Charges for Services, Activities or the Use of Property Amendment

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