

COUNCIL REPORT

M&C No.	2021-060
Report Date	March 02, 2021
Meeting Date	March 08, 2021
Service Area	Growth and Community Services

His Worship Mayor Don Darling and Members of Common Council

***SUBJECT: Zoning By-law and Heritage Conservation Areas By-law Amendments
- Fee Adjustments***

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Amy Poffenroth</i>	<i>Jacqueline Hamilton</i>	<i>John Collin</i>

RECOMMENDATION

Your City Manager recommends that Common Council:

1. Approve first and second reading of the attached amendment to the Zoning By-law; and
2. Approve first and second reading of the attached amendment to the Heritage Conservation Areas By-law.

EXECUTIVE SUMMARY

As part the Sustainability Plan, all development related fees were reviewed for proposed adjustments and the addition of some new fees. While the majority of the initiative has been completed with the adoption of amendments to five development by-laws in December 2020, a few by-laws remain, including the subject of this report – consideration of amendments to the Zoning By-law and Heritage Conservation Areas By-law.

The Zoning By-law amendment focuses on revised fees in an updated fee schedule and two new fees to build consistency with other development by-laws.

With the exception of the demolition (of a heritage building) permit fee, the amendment to the Heritage Conservation Areas By-law deals mostly with new fees on some low volume/high effort items.

The combined revenue generated by both revised fee structures account for approximately 17 percent of the \$100,000 revenue target. If approved, the new fees will be effective upon third reading, scheduled for March 22, 2021.

Considering amendments to both the Zoning and Heritage By-laws requires public hearings and are scheduled for the March 8, 2021 meeting.

PREVIOUS RESOLUTION

On May 4, 2020, the following resolution was passed:

1. Approve the implementation of the Sustainability Plan and all elements as presented to address the projected deficit of \$10 Million through workforce adjustments (60%), revenue generation, service changes, and continuous improvement efforts in 2021 and 2022.
2. Direct the City Manager to return to Council as and when required for implementation plan approval, including any changes to bylaws, policies or Council guidance and direction.
3. Approve the implementation of Standby Sustainability Initiatives as prioritized to ensure the entirety of the deficit is addressed, inclusive of updated deficit figures, to balance the 2021 and 2022 general fund operating budget.

On February 24, 2020, the following resolution was passed:

RESOLVED that as recommended by the City Manager in the submitted report M&C 2020-59: Permit and Development Approvals, New Fees – Sustainability Item, Common Council endorse the proposed Permit and Development Approvals New Fees – Sustainability Item as an option to be considered in addressing the entirety of the deficit in 2021 and 2022.

On December 2, 2019, the following resolution was passed:

RESOLVED that as recommended by the City Manager, Common Council endorse the proposed Permit and Development Approvals Fee Increases – Sustainability Item as an option to be considered in addressing the entirety of the deficit in 2021 and 2022.

REPORT

As part the Sustainability Plan, all development related fees were reviewed for proposed adjustments and the addition of some new fees. While the majority of the initiative has been completed with the approval of amendments to the Building, Plumbing, Water and Sewerage, Subdivision and Street Excavation By-laws in December 2020, a few by-laws remain, including the subject of this report

– consideration of amendments to the Zoning By-law and Heritage Conservation Areas By-law. The revised fees associated with the Zoning and Heritage by-laws are expected to generate approximately 17 percent of the revenue target.

As a reminder to Council, proposed fee adjustments consider the following:

- Consumer price index (CPI) since the fees were last adjusted;
- Cost of delivering the service;
- Simplified fee structure and addressing fee irregularities for ease of application, fairness, and improved process;
- A move towards cost-recovery; and
- Common practice in other municipalities.

The procedure for the March 8, 2021 Council meeting will be as follows:

- Item introduction by City Clerk
- Staff presentation regarding by-law amendments to both the Zoning and Heritage Bylaws
- 6:30 Public hearing - Zoning By-law
- 6:30 Public hearing – Heritage By-law
- Questions / Discussion
- Approval of 1st and 2nd Readings of the Zoning By-law, followed by the Heritage By-law.

Zoning By-law

The Zoning By-law amendment focuses on revised fees in an updated fee schedule and two fees to build consistency with other development by-laws. All fees have been moved to the updated fee schedule, as some were previously placed in the body of the by-law.

The proposed fees are shown in the table below:

Type of Application or Service	Current Fee	Proposed Fee
Zoning By-law Amendment	\$2,500	\$2,650
Zoning By-law Amendment requiring a Municipal Plan Amendment	\$3,500	\$3,700
Section 59 Amendments	\$2,500	\$2,650
Development Permits	\$110	\$200
Conditional Use	\$300	\$350
Encroachment in Good Faith	\$150	\$165
Non-conforming Use (Council)	\$200	\$250
Non-conforming Use (Committee)	\$300	\$350
Satisfactory Servicing (Council)	\$200	\$350
Similar or Compatible uses	\$300	\$350
Temporary Approval	\$300	\$350

Variances Tier 1 and Tier 2	\$50 + \$10/additional \$100 + \$20/additional	\$200 for up to five (5) variances, \$50 for each variance after six (6).
Committee Variances	\$300 + \$60/additional	\$400 for up to five (5) variances, \$100 for each variance after six (6)
Pit and Quarry Development Permit	\$1,100	\$1,500
Zoning Confirmation or Compliance Letter	\$100 + \$50 / additional hour	\$120 per hour

Fees were adjusted to account for a number of factors, including CPI, competitiveness with comparator New Brunswick municipalities, and cost recovery. Overall, cost recovery for Planning-related applications is very low, ranging from 10 percent for a Development Officer variance, to under 40 percent for a municipal plan amendment. Although some fees were increased greater than CPI (ie. variances), they still only recover a small fraction of the cost to deliver the service.

Staff is proposing a change in the way variance fees are calculated to enhance clarity and predictability for clients and for ease of administration. Variance fees have been combined to include only two fees – one for a Development Officer approval, and another for a Planning Advisory Committee approval. A flat fee for variances includes a package approval of up to five variances. Anything above five will be charged for each additional variance; however, this is a very rare circumstance.

Lastly, consistency with other development by-laws (mainly the Building By-law) has been incorporated in the Zoning by-law for two items:

- The inclusion of a double permit fee when work is undertaken without the development permit first having been issued. This is to recover resource costs related to enforcement efforts; and
- Clarity around refunds of application fees if the application is requested to be cancelled prior to a decision having been made.

As required under the *Community Planning Act*, the Planning Advisory Committee considered the by-law amendment at its meeting of October 20, 2020 and has submitted a letter of support for Council’s consideration.

Heritage Conservation Areas By-law

Proposed fee adjustments in the Heritage Conservation Areas By-law account for a very small portion of the revenue target. Recognizing that heritage property owners are subject to by-law requirements that do not apply to any other property owners, and that heritage buildings are considered a community asset, fees for typical heritage permits are not being proposed. With the exception of

demolition permit fees, the amendments deal mostly with new fees on some low volume/high effort items.

The proposed demolition permit fee is doubling, in an effort to recover new advertisement costs for required signage and to more accurately reflect staff time on these files. A new fee is being proposed to recover staff research time for requests to remove a property from designation. Additionally, a fee structure for Tier 3 infill developments is also being introduced to recover costs associated with required peer review on these applications. For consistency with other development by-laws, a double fee is proposed for work started without a heritage permit; in the case of the many routine heritage permits that are issued with no fee assigned, the fee would be \$200.

The proposed fees are listed below:

Application or Service	Current Fee	Proposed Fee
Heritage Demolition permit	\$ 1,000	\$ 2,000
Work without Issued Heritage permit	N/A	Double
Work without Issued Heritage permit if the fee is \$ 0	N/A	\$ 200
Request for Designation Removal – Research fee	N/A	\$ 1,000
Tier 3 Infill Permit:		
• value < \$ 1Million	N/A	\$ 1,000
• value \$ 1M - \$ 4M	N/A	\$ 2,000
• value > \$ 4 Million	N/A	\$ 3,000
Changes to an issued Heritage Permit that requires Board approval	N/A	\$ 200

The Heritage Development Board considered the by-law amendment at its meeting of October 7, 2020 and has submitted a letter of support for Council's consideration.

Comparators

Staff has undertaken a high level fee review of the most common permit and development approvals from Rothesay, Quispamsis, Fredericton, Moncton, Dieppe and Halifax, the relevant comparators shown below:

	Rezoning	Municipal Plan Amendment	Variance (Development Officer)	Variance (PAC)
Current	\$2,500	\$3,500	\$100	\$300
Proposed	\$2,650	\$3,700	\$200* *includes multiple	\$400* *includes multiple
Rothsay	\$1,500	\$1,800	\$0	\$250
Quispamsis	\$1,500	\$1,800	\$300	\$300
Fredericton	\$1,500	\$1,750	\$300	\$300
Moncton	\$2,750	\$3,500	\$450	\$650
Dieppe	\$2,500	\$3,500	\$450	\$450
Halifax	\$3,000	\$5,000	\$1,000	\$1,000

With the information from the fee review, it appears that Saint John’s fees tend to align more with Moncton and Dieppe than some of our closer neighbours, particularly in the area of planning applications. This is expected, given the services the City provides and that Saint John’s neighbourhoods are naturally more aligned with our urban neighbours like Moncton. That being said, Saint John’s One Stop Development Shop provides a high level of customer service and support, offering an integrated and coordinated customer service experience with all development service areas (planning / building / infrastructure / heritage) in one streamlined, development-focused service area.

Impact

While increasing development fees is always challenging, particularly from a messaging perspective, it is important to keep in mind that the financial impact on actual projects is relatively low and that cost-recovery is not being achieved for most of the development services, particularly in the area of planning applications.

It is also important to note the high level of support and incentives provided to developers and property owners in the City. The development incentives program and the heritage grant system will remain as a strong driver for projects in the City’s urban core. The City has a number of ways to encourage and support development, including parking exemptions in large parts of our urban areas, promotion and support of higher density developments, access to services and

amenities consistent with vibrant, active neighbourhoods and urban standards that citizens expect. Additionally, the One Stop Development Shop provides a high level of customer service to support and encourage development, including the project champion program; free pre-application service; a highly skilled, fully integrated professional team to provide guidance to applicants; and modernized, integrated development by-laws.

Next Steps

If first and second readings of the by-law amendments are passed on March 8, 2021, third and final reading is scheduled for March 22, 2021. The fees will be in effect immediately upon third reading.

The last two by-laws subject to the Development fees sustainability plan initiative is the Peddlers and Hawkers By-law and the Use of Sidewalks By-law. These will be before Council for consideration in the next month or two.

STRATEGIC ALIGNMENT

The permit and development approvals fees initiative is part of the City's Sustainability plan, which supports Council's Priority to be Fiscally Responsible.

SERVICE AND FINANCIAL OUTCOMES

The permit and development approvals fees initiative will generate approximately \$100,000 in additional revenue. Amendments to the Zoning and Heritage by-laws will generate approximately \$17,000 of the target.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The General Counsel's office provided support and advice in the drafting of the by-law amendments.

The Zoning By-law amendment was considered by the Planning Advisory Committee on October 20, 2020; a letter from the PAC has been submitted to Council.

The Heritage Conservation Areas By-law amendment was considered by the Heritage Development Board on October 7, 2020; a letter from the Board has been submitted to Council.

Public notice of the March 8, 2021 public hearings has been issued, pursuant to the *Community Planning Act* and the *Heritage Conservation Act*.

ATTACHMENTS

Zoning By-law Amendment
Heritage Conservation Areas By-law Amendment