



Report to: Development Services Committee

Meeting Date: November 22, 2021

SUBJECT: 2022 Development Fee, Building, and City-Wide Fee By-laws

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RECOMMENDATION:

1. That the Report titled “2022 Development Fee, Building, and City-Wide Fee By-laws” dated November 22, 2021 be received;
2. That the proposed amendments to the Development Fee and Building By-laws be referred to the Development Services Committee Public Meeting to be held on November 30, 2021;
3. That staff be authorized to amend the Capital Administration Fees from the City-wide Fee By-law 2002-276 for Engineering capital projects from the sliding scale ranging from 3.8% to 15% to a flat fee rate of 9% of the project costs, subject to approval of the Development Charges Background Study update in 2022; and further,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to 1) explain the proposed increases to the 2022 development and building fees and seek authorization to refer the proposed amendments to a Development Services Committee Public Meeting to be held on November 30, 2021 and 2) once the Development Charges Background Study update is approved in 2022, recommend amending the capital administration fees for Engineering capital projects.

BACKGROUND:

The Development Fee By-law and the Building By-law are reviewed and adjusted annually to recover the anticipated reasonable costs associated with the administration of *Planning Act* applications, the associated technical review and on-sit inspection, and building permits and building code inspection and enforcement under the Building Code Act. The annual adjustments fall into one or more of the following categories:

- overall adjustments driven by a moving average of indirect and direct costs
- adjustments to provide opportunities to balance reserve accounts;

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- refinements to existing fees to better reflect actual and anticipated costs of providing the related services; and
 - new fees to capture new or previously underfunded services.

A fee model was established in 2005 in order to calculate the annual adjustments necessary to ensure the City's Building, Engineering and Planning and Urban Design Departments remain adequately funded by building permit fees, development fees, capital administration fees (e.g. Engineering capital projects), and other types of fees. The model is designed to cover direct and indirect costs. In addition, transfers to a reserve for Building and a combined reserve for Planning and Urban Design and Engineering (Development Reserve) are included, as well as annual capital costs. Input to the revenue component of the fee model from the development activity-forecasting model continues as it was introduced for last year's update to the Development and Building permit fees.

Building on the development activity-forecasting model to track development applications and estimate development fees, continuous improvements in the development review process is an ongoing priority to achieve improved timelines, improved customer experiences, and efficiencies. An example is implementing KPMG's 2019 development review process assessment recommendations. A status update on implementing the recommendations was provided at the October 25, 2021 Development Services Committee meeting where most of the recommendations have been considered, mostly implemented, and in progress to be implemented. The status update also noted examples of development review process improvements from staff and external feedback including from the Markham City Builders Forum. Development Services Committee members also offered concrete solutions on the challenges of the planning process and opportunities for improvements. Staff will continue to examine opportunities for process improvements.

OPTIONS/ DISCUSSION:

Proposed Fee Increases

There were consultations with representatives of the development industry in 2020 regarding the continued economic uncertainty for 2022 as a result of COVID-19. It was recommended for 2022 that Planning & Urban Design and Engineering fees be limited to inflation, provided no unexpected circumstances occur (subject to the approval of the Commissioner of Development Services and the City's Treasurer). This was noted in the November 23, 2020 Development Services Committee staff report titled "Development Fee and Building By-law Update" to update the By-laws for 2021. Therefore staff recommends the following 2022 Development Fee and Building By-laws fee increases:

- 3.3% (Consumer Price Index August 2021 Toronto All-items) for Planning & Urban Design and Engineering Fees (Development Fee Bylaw)
- 5% (average for the past 5 years) for Building Permit Fees (Building By-law)

The following two tables have been updated based on the projected unit counts and outline the 2021 year-end projection and 2022 preliminary budget for the following:

- Revenues based on projected residential development applications and agreements executed as well as residential permits
- Expenses
- Projected year-end reserve balance
- The 2022 budget will be subject to approval of the 2022 operating budget in December 2021.

1. Development Fees (Planning & Urban Design and Engineering)

Development Reserve Forecast (\$ millions)

Planning and Urban Design	2021 YE Projection	2022
Revenues	17.42	12.83
Less: Expenditures	<u>-9.23</u>	<u>-10.47</u>
Transfer to Reserve (A)	8.18	2.36

2022 Proposed Planning Fee Increase 3.30%

Engineering	2021 YE Projection	2022
Revenues	19.64	10.16
Less: Expenditures	<u>-8.37</u>	<u>-9.20</u>
Transfer to Reserve (B)	11.26	0.96

2022 Proposed Engineering Fee Increase 3.30%

Development Fee Reserve

Development Reserve Beginning Balance	9.12	28.34
Planning Transfer (A)	8.18	2.36
Engineering Transfer (B)	11.26	0.96
Capital investment and Interest	<u>-0.23</u>	<u>-0.41</u>
Development Reserve Ending Balance	28.34	31.25

Based on the 2020 results which included surpluses of \$7.33M in Planning & Urban Design and \$2.54M in Engineering, the reserve balance at the end of 2020 was a \$9.12M which was the opening balance for 2021.

Based on the 2021 Budget, it was anticipated that there would be a transfer to reserves of \$3.22M in Planning & Urban Design and \$0.00M in Engineering. The current year end forecast is on track to surpass the targeted transfer to reserves for both departments, resulting in the reserves to be in a surplus position at the end of 2021 of \$28.34M.

The 2022 Budget, which includes projected development activity and proposed fee increases of 3.3% in Planning & Urban Design and Engineering, includes a transfer to the reserve of \$2.36M for Planning & Urban Design and \$0.96M for Engineering resulting in

an increase in the reserve surplus from \$28.34M to \$31.25M. The target is for the balance in the reserve to be equivalent to 1.0 and 1.5 times the annual Planning & Urban Design and Engineering department expenditures budget, ranging from \$19.67M to \$29.5M for 2022.

A component of the fee model above involves expenditures related to Parks Development and Engineering staffing resource as additional staffing will be requested through the 2022 Budget process. These expenditures will be included in the fee model subject to approval of the 2022 budget by Council. A review of the capital administration fees and development fees will be undertaken to update the fee model to recover these expenditures. Staff will endeavour to ensure development revenue as well as infrastructure and new parks projects resulting from growth will deliver sufficient revenue to cover these expenditures over the longer term through the review and potential adjustment to the fees and rates based on the 2022 fee review.

Proposed Development Fee By-law Changes:

Highlights of proposed Development Fee By-law amendments:

- Fees listed in Schedule A from Appendix ‘A’ have been increased by 3.3%
- Underground parking and associated parking structure definition added for clarification
- Site plan gross floor area (GFA) Engineering and Urban Design fee amended to only require the total GFA of the development if there is underground parking or associated parking structure

With regard to the last bullet point above, it is noted that when reviewing the Development Fee By-law with the Markham City Builder’s group, it became evident that Engineering and Urban Design site plan gross floor area fees applied to applications with no parking structure need to be corrected. Broader issues of the Development Fee By-law will be reviewed holistically in 2022 for a 2023 update.

2. Building Permit Fees

Building Reserve Forecast (\$ millions)

Building	2021 YE Projection	2022
Revenues	15.30	9.63
Less: Expenditures	<u>-9.32</u>	<u>-9.88</u>
Transfer to Reserve (C)	5.99	-0.25

2022 Proposed Building Fee Increase **5.00%**

Building Reserve

Building Reserve Beginning Balance	6.38	12.38
Transfer to/(draw from) Reserve (C)	5.99	-0.25
Capital investment and Interest	<u>0.01</u>	<u>0.03</u>
Building Reserve Ending Balance	12.38	12.16

Based on the 2020 results which included a deficit of (\$3.67M), the reserve balance at end of 2020 was \$6.38M which was the opening balance for 2021.

For the 2021 Budget, it was anticipated that there would be transfer to reserves of \$1.55M. The current year end forecasts a transfer to reserves of \$5.99M. This will result in a projected reserve balance of \$12.38M at the end of 2021.

The 2022 Budget, which includes projected permit activity and a proposed Building Permit fee increase of 5%, includes a draw from reserves of (\$0.25M) resulting in a decrease of the reserves to \$12.16M. The target is for the balance in the reserve to be equivalent to 1.0 and 1.5 times the annual Building department expenditures budget, ranging from \$9.88M to \$14.82M for 2022.

Proposed Building By-law Changes:

Highlights of proposed Building By-law amendments:

- Fees listed in Table 1 of Schedule A from Appendix 'B' have been increased by 5%
- Administrative fees associated with the issuance of Order to Comply and Stop Work Orders increased by 5%
- Fee structure of Administrative fees associated with the issuance of Order to Comply and Stop Work Orders modified
- New after hours inspection fee for Unsafe Orders
- New permit maintenance fee for residential infill construction
- New partial occupancy fee related to unfinished buildings
- Updated Schedule B to reflect changes to the requirements for submission content for permit applications
- Definitions updated and added new
- Clarification on the fees for production housing with purpose built accessory units
- Fees listed in Table 1 of Schedule A, Lines A14, A17, A21 and E1 increased to reflect staff hours required to process these application types. Appendix 'C'

Consultation with the Development Community

The *Building Code Act* requires the City to hold at least one public meeting with respect to changes in Building permit fees. Notice must be given to the general public and interested parties 21 days prior to the meeting. Staff are recommending that the changes to the Development Fee By-law and Building By-law be referred to a Development Services Public Meeting to be held on November 30, 2021. To meet the timeline requirement, the required notice has been placed on the City's website, in the Markham Economist and Sun and the Thornhill Liberal along with email notice to the development community.

As noted in the Proposed Fee Increases section of this report, there was a commitment in 2020 to limit the 2022 Planning & Urban Design and Engineering fee increases to inflation, provided no unexpected circumstances occur (subject to the approval of the Commissioner of Development Services and the City's Treasurer). Staff met with members of the Building Industry and Land Development Association (BILD) and

Markham City Builders Forum in Summer and early Fall 2020 to confirm the inflation increase of 3.3% (Consumer Price Index August 2021) while Building Standards' fee increase of 5% remains the same as increases from the past several years.

There were also discussions in early 2021 regarding the structure and components of the Development Fee By-law. Specifically, issues were raised about the Engineering and Urban Design site plan gross floor area fees where the fee was applied to all applications regardless if there was an underground parking structure or associated parking structure. As noted from the Proposed Development Fee By-law Change section of this report it became evident that particular fee needed to be corrected to only apply if there was an underground parking structure or associated parking structure. Staff are preparing to review the Development Fee By-law holistically in 2022 for a 2023 update.

Adjusting Capital Administration Fees for Engineering Capital Projects

The fee model ensures the City's Building, Engineering and Planning and Urban Design Departments remain adequately funded by various fees including capital administration fees (e.g. Engineering capital projects).

Capital Administration Fees are collected in order to cover the cost related to management, oversight and administration of capital projects and the source of funding is from Development Charges. The Capital Administration Fees within By-law 2002-276 has been in effect since 2006 and has not been updated. The current fee structure for the Capital Administration Fee are as follows:

Amount	% Chargeback
First \$100K	15.0%
Between \$100K and \$500K	12.0%
Between \$500K and \$1M	9.0%
Between \$1M and \$5M	7.5%
Between \$5M and \$10M	6.0%
Between \$10M and \$15M	4.5%
Over \$15M	3.8%

There will be discussions with BILD and Markham Developers regarding the Capital Administration Fees through the current Development Background Charges Study. Staff recommends that the Capital Administration Fees be updated from the sliding scale as shown above to a flat fee rate of 9% of the project costs, subject to Council approval of the Development Charges Background Study update in 2022. The change will be reflected as part of the capital budget beginning in 2023. The justification are as follows:

- The year over year revenue from Capital Administration Fee has been lower than what was forecasted – in order to recover costs associated with the management, oversight and administration of the capital projects, an increase to the Capital Administration Fee is recommended.
- For comparison, Planning studies not related to any Planning Act application, as well as the Parks capital projects are both charging 9.0% in fees in accordance to the current Fee By-law.

FINANCIAL CONSIDERATIONS

Staff has worked to ensure proper direct and indirect cost recovery and to incorporate the results into the proposed 2021 operating budget. The fee adjustments recommended in this report for 2021 are 3.3% for Planning & Urban Design, 3.3% for Engineering, and 5% for Building Standards, which will assist in offsetting the projected direct and indirect costs, including positive contributions to the Building and Development reserves. Finance and Development Services staff will monitor financial performance against budget and report back to Council throughout the year as part of the Year-to-Date Results of Operations reports.

Summary of Reserve Balances

Markham has experienced stronger development and building activity since 2016 when the Development reserve balance started to move out of deficit and increase with a surplus in 2018 and 2020 and a forecasted surplus by the end of 2021. The reserve balance for Building in the past several years has been relatively healthy. The Building Standards Departments has utilized the reserve to invest in new processes, technologies, and updates such as ePLAN and a comprehensive zoning by-law project, and to withstand cyclical downturns without abrupt changes to capacity and service levels. The following table provides a recent history of the balances in the Development (Planning & Urban Design and Engineering combined) and Building reserves:

Reserve Balances Surplus/ Deficit (\$ millions)		
Year End	Development	Building
2015	(10.67)	9.63
2016	(10.74)	10.22
2017	(7.77)	9.36
2018	0.277	12.94
2019	(0.52)	10.36
2020	9.12	6.38
2021 Forecast	28.34	12.38
2022 Forecast	31.25	12.16

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management and Municipal Services delivery

BUSINESS UNITS CONSULTED AND AFFECTED:

Planning & Urban Design, Engineering, Building Standards, Financial Services, Legal Services

RECOMMENDED BY:

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ATTACHMENTS:

Appendix 'A' - Draft of amendment to delete and replace Schedule 'A' from By-law 2020-139 to amend Development Fee By-law 211-83

Appendix 'B' - Draft of amendment to repeal and replace Building By-law 2020-140