



Report to: Development Services Committee Date Report Received: November 5, 2013

SUBJECT: Development Fee and Building Fee By-laws Update (2014)
PREPARED BY: Tim Moore, Director of Building Standards, Ext. 4712
Jamie Bosomworth, Manager of Strategy and Innovation, Ext. 2180

RECOMMENDATION:

- 1) That the Report titled "Development Fee and Building Fee By-laws Update (2014)", dated November 5, 2013 be received.
- 2) And that the proposed amendments be referred to the Development Services Committee Public Meeting to be held on December 3, 2013;
- 3) And 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 explain proposed changes to fees that are applied to offset the projected costs for Building, Engineering and Planning and Urban Design Departments in 2014. The proposed fees will be enacted through amendments to the Development Fee By-law 211-83 and to Building By-law 2011-263. These by-laws set fees to be paid by applicants for planning, urban design and engineering services, building permits and associated services, and are reviewed and updated annually.

The recommended fee increase for the Building by-law in 2014 is 5% and for the Development fee by-law is 10%. Certain other changes and updates to both by-laws are also recommended. This report seeks authorization to refer the proposed amendments to a Development Services Committee Public Meeting to be held on December 3, 2013.

BACKGROUND:

The Development Fee By-law and the Building By-law are reviewed each year to recover the reasonable costs associated with the administration of *Planning Act* applications 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 (5-year volume of activity model);
- refinements of 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 and development fees. The model is designed to cover direct and indirect costs based on the past five year average level of activity. In addition, transfers to a reserve for Building and a combined

reserve for Engineering and Planning and Urban Design are included, as well as yearly specific capital costs.

OPTIONS/ DISCUSSION:

Capital Costs

To improve service delivery Development Services will be investing in a comprehensive electronic system for applications and plan review. The business case assessment for this project was recently completed by an independent consultant, and identified a first year implementation budget of \$993,900, with additional costs in future years.

The City is also undertaking a comprehensive zoning by-law project which will require a number of years to implement. The 2014 budget for this initiative is \$530,000.

These capital investments are necessary to improve and modernize the City's Building and Development approval service delivery. Accordingly, the costs have been incorporated into the 2014 fee model to ensure they will be fully funded going forward.

Building Permit Fees

As a result of strong building permit revenue in 2011/12 and operating cost control in the Building Standards Department, the building permit fee reserve now exceeds \$11 million. Part of this reserve is proposed to be reinvested in the aforementioned projects to improve services to the development industry. The fee model has calculated a 10.4% increase to fully fund these service improvements and the department. However, in consideration of the Building Department's strong positive reserve balance, the recommended fee increase in 2014 is being limited to 5%.

Markham's building permit fee rates are currently about average when compared with the 40 largest municipalities in Ontario, and are estimated to remain so after this increase.

One other update to the Building By-law is recommended. The City incorporated provisions for Registered Code Agents (RCA) in the Building By-law in 2005, but did not establish any form of agreement or consider fee adjustments at that time. An RCA is a provincially authorized form of alternative service delivery whereby a registered agent takes responsibility for certain duties and files reports to the Chief Building Official, in place of the usual degree of City plan review and inspection. The service obligations of the City are less in these instances and the permit fee is required to be reduced where the applicant engages the RCA. In consultation with the Legal Department, the Chief Building Official has developed a model service agreement for use in the event this alternative form of service delivery is used in order to meet legislated permit review timeframes. Together with the agreement, the incorporation of a 20% plan review and 20% inspection fee reduction will make this service delivery option available to the Chief Building Official. Although there are no immediate plans to adopt this strategy on any project, the availability of the model service agreement and fee reduction will allow a pilot project to be undertaken to test this innovative form of service, if a suitable proposal from a qualified applicant is received.

Development Fee Determination (Planning and Urban Design and Engineering)

When including the additional capital costs as noted above the results of the fee model associated with Development fees, in 2014 are projected to be 1.4% for Planning and Urban Design and a slight decrease for Engineering. However, the combined reserve account continues to be in a deficit, notwithstanding higher volume of activity in recent years. Therefore, Staff are recommending a 10% increase to both Planning and Urban Design and Engineering fees to mitigate the current negative reserve balance. Further structural changes to the Fee By-law are under review as outlined in this report, and staff will report back in 2014.

Development Fee By-law

Within the Development Fee By-law, Staff are proposing to maintain fees at current levels for various types of minor applications. These include:

- Heritage Site Plan applications for additions, alterations and ground oriented dwellings;
- Site plan applications for alterations to residential driveways or parking areas or commercial façade for Heritage buildings or building in a Heritage District;
- By-law minor variance for development standards for residential properties and all other types of properties;
- Fee for Urban Design for minor site plans;

In addition the following fees are calculated based on a percentage of costs. Staff are proposing to retain the current percentages at this time:

- Fee for Urban Design and Engineering for administration of peer review by consultants of various types of studies;
- Review and approval of engineering drawings for subdivisions; and
- Review, comment and administration of residential service connections.

All other fees within the development fee by-law are recommended to increase by 10% for both Planning and Urban Design and Engineering rounded up to the closest \$50.

In addition to the flat rate increases, Staff are recommending additional structural changes to fees and the fee by-law as outlined below.

To simplify the by-law and make it more user friendly for customers, Staff are proposing to revamp the layout of the by-law. The major change is eliminating the department sections, incorporating these fees along with other fees, into four major sections of the by-law; General Terms, Development Application Fees, Supplementary Fees and Miscellaneous Fees. General Term section identifies terms and conditions associated with all fee categories. Development Application Fees are specific to each application type and include all three disciplines, Planning, Urban Design and Engineering where appropriate. Supplementary fees are additional fees associated with Development Applications and Miscellaneous fees are additional to or independent of Development

Application fees and/or Supplementary fees. This allows the customer to go directly to an application type and find all applicable fees.

The applicable Urban Design and Engineering fees for small minor site plan applications are also being clarified. Staff are proposing to introduce additional fee categories for Urban Design and Engineering for heritage site plans for residential applications and commercial applications under 50m², site plans for façade changes and site plan applications for alterations to parking lots and outdoor patios.

Staff are finding site plans for high density residential apartments and other units accommodating overnight stay (including hotels, seniors homes, etc.) are becoming more complicated to review due to additional meetings, complex studies and more consultation and negotiation required among other tasks. Staff are proposing to increase the per unit fee of these types of applications to match the per unit fee for ground oriented units, to cover these additional costs. Including the 10% increase, the fee for all units will now be \$1,000.

A Site Alteration By-law was approved in 2011 to regulate or prohibit removal of topsoil, placing or dumping of fill and alteration of the grade of land in Markham and included fees for Engineering review and inspections. Urban Design Staff are increasingly engaged in site alteration permits in consultation with engineering and reviewing tree preservation plans and are proposing to add an additional Urban Design category for site alterations. In addition, Staff are proposing to simplify the site alteration category by combining the residential category with “all other” to just one category.

Within the Miscellaneous section, Staff are proposing to include the following four new categories:

- The first one includes “Miscellaneous submissions not identified under a fee category” to capture Staff time not captured in other categories within the by-law, and could apply to such things as reviewing landscape plans associated with a consent application, or reviewing minor plans associated with residential developments, etc. Fees under this category are collected using either a percentage fee or an hourly rate.
- For the second additional category, the Engineering Department are now reviewing Construction Management and Traffic Management Plans associated with a the recently Council approved road occupancy permit. The fee is \$2,500 per application and only includes the costs associated with reviewing these plans.
- The Engineering Staff are also reviewing Shoring and Hoarding Encroachment Plans. The proposed fee is \$2,500 for covering the costs of reviewing these plans.
- Finally, Staff spend a considerable amount of time associated with a third party appeal to the Ontario Municipal Board (OMB) where the City supports an owner’s application. Staff are proposing an hourly rate reimbursement fee with a \$10,000 deposit. This fee will cover Staff time for preparation and evidence work for OMB or other Tribunals.

Consultation with the Development Community

The *Building Code Act* requires the City to hold at least one public meeting with respect to any changes in Building fees. Notice must be given to the general public and interested parties 21 days prior to the meeting. It is recommended that notice be placed on the City's website, in the Markham Economist and Sun and the Thornhill Liberal, and be mailed to the Urban Development Institute, Toronto Home Builders Association, and development industry representatives listed on the City's "Developers Round Table" distribution list. Staff are recommending that the changes to the Development Fee and Building Fee By-laws be referred to Development Services Committee Public Meeting to be held on December 3, 2013.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

The Finance Department has been working closely with Development Services Commission staff to ensure proper direct and indirect cost recovery and to incorporate the results into the proposed 2014 operating budget. The fee adjustments recommended in this report, 5% for Building and 10% for Planning & Urban Design and Engineering will assist in providing increased funding for projected direct and indirect costs, including contributions to Building, Planning and Engineering reserves and to cover proposed capital project costs. Finance and Development Services Staff will monitor financial performance against budget in 2014 and report back to Development Services Committee if any midyear adjustments to the Fee By-laws need to be contemplated along with a future year forecast.

Summary of Reserve Balances

Markham has experienced strong development activity over the past several years. Building permit revenues have been particularly strong and have resulted in a positive reserve balance. This positive balance positions the Department to invest in new processes and technologies, such as electronic plan review and a comprehensive zoning by-law project, and to withstand cyclical downturns without abrupt changes to capacity and service levels. Unfortunately the combined reserve balance for Planning and Engineering does not reflect the level of activity and remains negative with a projection of a deficit of just under \$2.3 million at year end. The following table provides a history of the reserve balances in Building and the combined Planning and Engineering accounts:

Reserve Balances Surplus/(Deficit)		
Year End	Building	Planning and Engineering

2007	3,571,000	1,528,000
2008	2,412,000	(1,716,000)
2009	540,000	(5,632,000)
2010	(90,000)	(1,476,000)
2011	6,630,000	(2,455,000)
2012	11,887,000	(907,000)
2013 Projection	12,081,000	(2,267,000)
2014 Forecast	9,581,000	(4,516,000)

Greenfield development has historically been the largest contributor to Planning and Engineering revenues, but subdivision activity has been declining in comparison to intensification and infill development in Markham. This trend is consistent with Council's Growth Strategy focus on infill and intensification, and is projected to continue. Intensification through complex rezoning and site plan applications is increasing requiring more effort and additional fees to cover Staff costs than previously received. With the overall increase in fees, and the additional changes to the structure of this by-law as proposed in this report, the Planning and Engineering Departments will be better positioned to increase revenues. It is acknowledged, however, that further structural changes to the fee by-law are required to achieve full cost recovery and to move towards a positive reserve balance.

A consultant will be hired in Q4, 2013 to undertake a review of the fee model and our fee by-laws to determine, among other matters, recovery of direct and indirect costs, reserve policy for positive and negative reserve balances, distribution of costs across application categories, transition from greenfield development to urban infill, and comparison of fee structure to other urban municipalities. Following this review, Staff will report back to Development Services Committee by the end of Q1, 2014 to suggest recommendations to the fee model and structural changes to the by-laws and will provide a future year forecast.

HUMAN RESOURCES CONSIDERATIONS

Recoveries of direct and indirect costs, consistent with Provincial legislation.

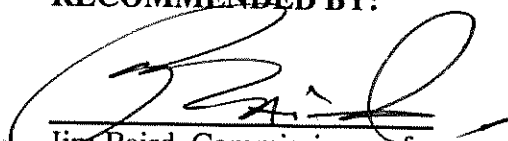
ALIGNMENT WITH STRATEGIC PRIORITIES:

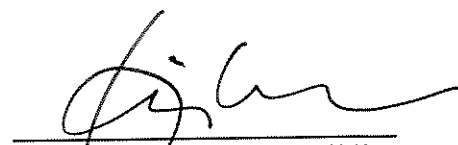
Growth Management and Municipal Services delivery.



BUSINESS UNITS CONSULTED AND AFFECTED:

Development Services Commission Departments and Finance Department were consulted.

RECOMMENDED BY:


Jim Baird, Commissioner of
Development Services


Tim Moore, Director Building
Standards


Alan Brown, Director of Engineering
Rino Mostacci, Director of
Planning and Urban Design

ATTACHMENTS:

Attachment "A"	Draft of amendment to Development Fee By-law 211-83
Attachment "B"	Draft of amendment to Building Fee By-law 2011-263