Agenda – Council – November 16, 2016

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 8, 2016

Item No. 16 Planning, Development and Building Fees By-law No. 66/2016 Amendments

STANDING COMMITTEE RECOMMENDATION:

On November 9, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That Council enact amendments to the Planning, Development and Building Fees By-law No. 66/2016 in accordance with Appendix "A" of this Report (draft amending By-law is attached as Appendix "B"), with the following amendment:

    A. That a fee for an extension of the time period approved by Council for a by-law coming into force under a DAS/DAZ/DASZ file in the amount of $546.00, be included.

2. That the Proper Officers of the City do all things necessary to effect the intent of the foregoing.

Agenda – Council – November 16, 2016

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 8, 2016

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 9, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 8, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- That Recommendation 1 be amended by adding the following after "Appendix "B")":

  ", with the following amendment:

  A. That a fee for an extension of the time period approved by Council for a by-law coming into force under a DAS/DAZ/DASZ file in the amount of $546.00, be included."

and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Planning, Development and Building Fees By-law No. 66/2016 Amendments

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Dueck	J. Kiernan	P. Olafson (acting for M. Ruta)	D. McNeil

EXECUTIVE SUMMARY

The Planning, Property and Development department is responsible for the review, approval and inspection of development and building-related applications to ensure compliance with the Manitoba Building Code and various City of Winnipeg (the "City") By-laws, including the Electrical By-law, Waterway By-law, and zoning by-laws, for the construction and occupancy of all buildings. Additionally, it serves to process land development applications for sub-divisions and re-zonings, applications to vary the City's zoning by-laws through variances and conditional use approvals, and other assorted planning and building activities.

Proposed amendments to the Development and Building Fees By-law No. 66/2016 are summarized in Appendix "A" and a draft amending By-law is attached as Appendix "B". These amendments include:

1. Omissions: Fees that were previously charged or authorized by Council but were omitted in error from the schedule adopted in March, 2016;

2. Corrections: Fees which were mistakenly misaligned with other fees or schedules from other Departments;

3. Clarifications: Fee descriptions that were enhanced to assist in clarity for staff and customers;

4. Fee adjustments: Reductions in fees in a couple of key categories due to on-going consultation with and feedback from industry;

5. Fee elimination due to changes in operations; and

6. New fees (scenarios not contemplated during the comprehensive fee review)

Additionally, administrative amendments to the By-law are being proposed which include:

- removal of certain definitions that have become redundant or unnecessary;

- clarification that failure to pay a fee imposed by the By-law is a contravention of the By-law, which will enhance the City's ability to collect unpaid fees, particularly those incurred after permit issuance; and

- clarification that monetary penalties imposed under the By-law are in addition to any fee or term of imprisonment, and can be collected in the same manner as a tax imposed by the City, which will enhance the City's ability to collect monetary penalties.

RECOMMENDATIONS

1. That Council enact amendments to the Planning, Development and Building Fees By-law No. 66/2016 in accordance with Appendix "A" of this Report (draft amending By-law is attached as Appendix "B").

2. That the Proper Officers of the City do all things necessary to effect the intent of the foregoing.

REASON FOR THE REPORT

On May 18, 2016, Council enacted the Planning, Development and Building Fees By-law No. 66/2016 (the "By-law") which imposed new fees as well as numerous changes to existing fees and fee calculation methods, with an implementation date of June 1, 2016.

As a result of the application of the new fees to most categories of permits, in addition to feedback from the industry and customers, required amendments to a number of fees and charges have been identified.

Only Council can approve amendments to the fees imposed by the By-law.

IMPLICATIONS OF THE RECOMMENDATIONS

Revisions to fee amounts or methods of calculation will reduce the amount of permit revenue collected but will still reflect the overall principle of full-cost recovery for enforcement and administration of permits, licenses and other regulatory mechanisms in which the Planning, Property and Development Department engages. No impact on the budget is being estimated or proposed.

The City of Winnipeg Charter provides numerous enforcement options, including section 175 which allows for the collection of monetary penalties in the same manner as a tax imposed by the City and section 187 which allows for the costs associated with remedying a contravention of a by-law to be added to real property taxes, to be collected in the same manner and with the same priority as those taxes. The proposed administrative changes to the By-law will enhance the Department's ability to collect unpaid fees and monetary penalties by allowing the Department to take advantage of the enforcement options housed in sections 175 and 187.

HISTORY/DISCUSSION

On March 23, 2016, Council adopted the results of a comprehensive fee review of all planning, development and building permit fees and charges. On May 18, 2016, Council passed the Planning, Development and Building Fees By-law No. 66/2016 with an implementation date for all new and revised fees arising from the comprehensive fee review of June 1, 2016.

During the four months following implementation of the By-law, which included the busy summer construction season, the new fees have now been applied to virtually every type of permit and approval. This has revealed a number of issues with respect to the application of fees that need to be addressed through amendments to the by-law. These changes are not material from the perspective of the overall budget but in some cases are significant on a per permit basis. Examples include:

- cases where the changes were discovered to be more onerous than intended by the Public Service, such as the fees related to special events and temporary structures and some commercial mechanical fees;

- cases where the new fees were deemed to be inappropriate or unreasonable for the full scope of projects, such as those fees for low voltage electrical (data, phone, video) in housing applications or commercial mechanical permits;

- fees that have become redundant due to operational changes (see below); and

- cases where the fee wording or descriptions are unclear and simply need to be clarified or enhanced.

The amendments to the fees proposed in this Report arise from issues identified by the Public Service as well as feedback from the construction industry, design professionals and customers. The new fees schedule calculates permit fees based primarily on the use of building area to calculate permit fees rather than the value of construction. While effective, there are instances where calculating fees on the basis of building area has generated fees that are unreasonable given the scope of the work associated with the permit.

The fees and charges schedule contains detailed descriptions of permit fees, as well as instructions as to methods of calculation and circumstances under which a particular fee will be charged. Some of the amendments proposed in this Report include wording changes to provide greater clarity and transparency.
One of the more significant proposed fee changes relates to special events. The Comprehensive Fee Review attempted to assign fees representing full cost recovery but it failed to fully consider the complete package of fees for this small category of permits. Additionally, it was realized that this group of fees needed to be further moderated to better facilitate special events which, as a rule, represent not-for-profit initiatives which generally enhance public life.

Another significant change is the elimination of fees for occupancy permits for individual condominium units. Unlike rental apartment buildings where the City only requires a single occupancy permit for the building, well over a decade ago a requirement was introduced to ensure that an initial occupancy permit was issued for each individual unit in the case of condominium projects. The fee for each occupancy permit was reduced in the 2016

comprehensive fee review to $100 per unit. This occupancy permit requirement was an attempt to better manage enforcement for defects, particularly as the titles of each unit were purchased from the original developer prior to all the defects being addressed. In some cases these units were being sold as undeveloped ‘shell units’.

This occupancy permit requirement has proven to be administratively cumbersome and resource intensive, a source of significant frustration for the industry, and costly in the case of repeated renewals of interim occupancy permits for each unit due to outstanding defects in the base building or common areas.

A recent administrative decision was made to eliminate this requirement as a means to reduce “red tape” and improve efficiency. It was determined that there were other means of addressing defects and managing compliance with these units without the requirement for hundreds of additional occupancy permits each year such as issuing Orders to Comply to the outstanding unit holders. The elimination of these fees reflects this administrative decision.

FINANCIAL IMPACT

Financial Impact Statement Date: September 21, 2016

Project Name:
Planning, Development and Building Fees By-law No. 66/2016 Amendments

COMMENTS:

The recommendations will result in signficant changes, generally decreases, to some permit fees. Given the inherent uncertainty in predicting the mix / volume of various types of permits, it is not possible to quantify the amount with reasonable certainty. It is believed, however, that the amount is likely to be immaterial in nature. As such, there are no financial implications associated with the recommendations contained in this report.

"Original Signed By"
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

Direction 1 in Prosperity Section (01-3) identifies the need to provide efficient and focused civic administration and governance including demonstrating exemplary customer service standards. Revenue from permit fees maintains resources and funds recent improvements in the permit system which aligns with this general policy.

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by Martin Grady
Date: October 3, 2016

ATTACHMENTS:

1. Summary of proposed by-law amendments;
2. Draft Amending By-law.

Appendix A: Summary of Amendments

1. **Omissions: Fees that were previously charged or authorized by Council but were accidently left out of the schedule adopted in March, 2016:**
   a. Fees associated with historical buildings that were introduced with the new Historical Resources By-law in 2014;
   b. Addition of a maximum penalty for work without a waterways permit;
   c. Fees for generating property maps requested by customers;
   d. Fee for additional (multiple) plan reviews for housing building permits;
   e. Fee for installation of solid fuel burning appliance;
   f. Fee to request a building name; and
   g. Tax clearance fee (fee is being passed on from Assessment & Taxation but this inserts it in the permit fee schedule)

2. **Corrections: Fees which were mistakenly misaligned with other fees or schedules from other Departments:**
   a. Fees for backflow prevention devices (Water & Waste Department fees) associated with mechanical permits; and
   b. Fees for a small number of commercial electrical fixtures are being adjusted from $1.70 to $1.75 to align with other equivalent items. Misalignment appears to have occurred due to a previous rounding formula.

3. **Clarifications: Fee descriptions that were enhanced to assist in clarity for staff and customers:**
   a. Re-formatted Waterways/Floodfringe section for greater clarity;
   b. Re-formatted housing inspections section to clarify how many inspections are included with the building permit fee;
   c. Wording changes to indicate that where a base fee applies, this represents the minimum fee for the permit;
   d. Clarification that facia sign installations are eligible for a reduced fee in some circumstances;
   e. Wording changes to fees for some commercial electrical installations to clarify that the permit fee is charged for each piece of equipment installed;
   f. Wording changes to occupancy permit fees for non-compliance to clarify that the fee is charged on a monthly basis;
   g. Wording changes to housing electrical permits;
   h. Clarification wording for annual encroachment licensing fees; and
   i. Clarification regarding refunds for withdrawn trade permits

4. **Fee adjustments: Reductions in fees due to on-going consultation with and feedback from industry:**
   a. Special event and temporary buildings;
      i. An example of a special event with one large tent (300 sq meters) and a stage is reduced from $700 to $300. Previous to June 1, 2016 this special event would have been charged $328.
   b. Commercial mechanical permit fees;
      i. Area fees for HVAC are reduced for mechanical permits for base-building only and more simple medium and low hazard industrial buildings;
      ii. Sprinkler permit fees: The $250 per additional floor fee has been eliminated for multi-storey buildings. However, it is now clear that the area fee applies to total floor area and not simply the area of the building footprint;

c. Electrical permit fees for multi-unit Part 9 housing specific to video, data, voice cabling;
d. Housing electrical permit fees specific to solar photovoltaic systems;
e. Reduction of some fees associated with document and record search requests; and
f. Fee specific to removal of existing spray booths.

5. Fee elimination due to changes in operations:

a. Occupancy permit fees for individual condominium units.

6. New Fees (scenarios not contemplated during the comprehensive fee review):

a. Fee for review of communication facility proposals that are exempted installations under the City of Winnipeg Communication Facility Protocol -- $500 (represents a reduction from the default fee);
b. Fee for occupancy permit for a condominium display suite -- $350;
c. Development permit fee of $25 specific to solar photovoltaic systems (current situation may have allowed the application of a higher or equivalent fee – this clarifies the situation);
d. Property information request – housing certificate of inspection acceptance -- $20; and
e. Optional courier fee ($10) for applicants that don't want to arrange to pick up their permit

Appendix B: Draft Amending By-law