

Staff Report

Report To: Community Services Committee

Report From: Jocelyn Wainwright, Junior Planner
Pamela Coulter, Director of Community Services

Meeting Date: December 14, 2022

Report Code: CS-22-155

Subject: Update to Fees and Charges By-law No. 2022-066
regarding Pre-Consultation, Cash-in-lieu of Parkland
Dedication, and Cash-in-lieu of Parking Fees

Recommendations:

THAT in consideration of Staff Report CS-22-155 respecting an update to the Fees and Charges By-law, the Community Services Committee recommends that City Council direct staff to:

1. Bring forward a by-law to amend Fees and Charges By-law No. 2022-066 to add or amend the following fees as outlined in the report:
 - a. Pre-consultation relating to minor applications;
 - b. Cash-in-lieu of parking;
 - c. Cash-in-lieu of parkland;
 - d. Building fees; and
2. Provide notice of the City's intention to amend Fees and Charges By-law No. 2022-066 in accordance with Notice By-law No. 2018-022.

Highlights:

The purpose of this report is to:

- Update the City's Fees and Charges By-law respecting Pre-consultation for matters under the Planning Act.
- Update the City's Fees and Charges By-law respecting Parkland Dedication.
- Update the City's Fees and Charges By-law respecting Cash-in-lieu of Parking.
- Update the City's Fees and Charges By-law respecting Building Permits.

Previous Report/Authority:

Bill 109, *More Homes for Everyone Act*, 2022 – Overview and Next Steps [CS-22-084](#)

[Report CR-22-055 2022 Fees and Charges Review](#)

[Fees and Charges By-law 2022-066](#)

Background & Proposal:

The City's Fees and Charges By-law covers fees for every aspect of the City. Each year, the City undertakes an overall review of the City's Fees and Charges By-law. This report and recommended changes are being brought in advance of the City-wide review to ensure that the fees and charges appropriately reflect recent legislative amendments through Bill 109, update fees that are overdue for review and provide fees accurately reflect the costs to deliver Building Services.

i. Pre-Consultation

Pre-consultation is required prior to submitting an application for an Official Plan Amendment, Zoning By-Law Amendment, Approval of a Plan of Subdivision or Condominium, or for Site Plan Approval. The pre-consultation process allows applicants to present a development proposal to City staff and gives City staff the opportunity to:

- Clarify the application process;
- Provide preliminary comments and identify issues;

- Meet and/or consult with external agencies;
- Determine what drawings, documents, and technical studies that are required to support an application consistent with the City's Official Plan (OP); and,
- Identify any additional supporting information/materials that must be submitted with the development application in order to be considered a complete application under the Planning Act.

Pre-consultation is appreciated by applicants as it provides clarity early in the process.

Bill 109, *More Homes for Everyone Act*, 2022 legislated several changes to the Planning Act. The changes to the Act emphasize the importance of pre-consultation to ensure that the City can achieve the timelines prescribed for Site Plan Approval (60 days). Planning staff are recommending changes to the pre-consultation fees to:

- ii. reflect the staff time and resources required in the pre-consultation process to detail the submission requirements of a complete application; and,
- iii. to allow for the modification of pre-consultation fees based on the scale of the proposed development to facilitate the appropriate level of response with the introduction of a 'minor' pre-consultation application and fee.

A minor pre-consultation fee is applicable to:

- a. Developments where there is an existing site plan agreement registered on title and where the applicant is proposing a minor modification to the existing approvals. Minor modifications are changes to the existing approvals that do not impact the functionality of the site and do not normally require changes to existing studies such as stormwater management report, functional serving study, traffic impact study, etc.
- b. Developments on sites without existing site plan agreements where the proposed development does not alter the existing site layout including site access, stormwater management systems, municipal servicing, etc. Changes may include repainting the existing parking area, providing accessible parking spaces, entrances, and adding landscaping.

ii. Cash-in-lieu of Parkland Dedication - Consent

The Planning Act provides for parkland dedication respecting Plans of Subdivision, Consents, and Site Plan Approvals. Historically, the City has not collected parkland through Section 42 (Site Plan Approval) and this report does not propose the collection of parkland as part of the Site Plan Approval process.

Section 7.4.3 of the City's Official Plan ("OP") regulates matters relating to parkland dedication in accordance with the Planning Act. The OP stipulates that as a condition of consent, the City may collect the required parkland conveyance as cash-in-lieu. As prescribed by the Planning Act, the cash in lieu value of the land is determined as of the day before the day of the granting of the provisional consent.

The fees relating to parkland dedication relating to consent applications have not been updated for over ten years. Historically, the City has implemented a charge based on the frontage or the area of the lot based on a set value, whichever is less for consent application. The current fees used are a frontage fee of \$65 per metre of frontage or an area fee of \$1.75 per square metre of lot area for each lot created, whichever is less, for each severed lot(s).

It merits note that this fee has not been in the Fees and Charges By-law but rather implemented as a standard condition relating to Consent approval through the Committee of Adjustment. It would be appropriate to include this fee in the Fees and Charges By-law to ensure transparency and to allow the fees to be reviewed periodically through the annual review of the City's Fees and Charges By-law.

Staff are proposing an update to the calculation used to determine cash-in-lieu of parkland fees based on a recent valuation of lots sold within the last two years, lot frontage, and lot area whereby the City would charge the lower or the lesser of the fees calculated. The annual review of the Fees and Charges By-law will provide an opportunity to update the 'two year valuation' baseline.

iii. Cash-in-lieu of Parking

Sec.5.18.1 of the City's Zoning By-law includes that no person shall erect or enlarge any building or structure or establish or change a use unless parking stalls required by the Zoning By-law are provided unless the requirement to

provide such parking is reduced or eliminated through an agreement between the City and the owner of any lot as provided for in the Planning Act.

The Planning Act permits municipalities to enter into agreements exempting property owners from the requirement to provide or maintain parking facilities (Sec.40). The Planning Act stipulates that the agreement shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated (Sec.40.2).

Section 5 of the City's OP provides guidelines relating to the provision of parking and scenarios where the City may collect cash-in-lieu of parking. Within the C1 Zone of the River District, recognizing that parking is provided on streets and in municipal lots, where new development and redevelopment cannot provide sufficient parking on site, the Zoning By-law provides that the City may collect cash-in-lieu of parking to be used expressly for the provision of additional parking spaces in an appropriately defined area (5.1.4.5) in order to meet the requirements of the Zoning By-law.

Specifically, Staff are recommending that the fees be updated to reflect the current cost of providing additional parking spaces in appropriately defined areas such as municipal parking lots.

iv. Building Division Fees and Charges

The Ontario Building Code Act (the "BCA") requires that the Council of a municipality appoint a Chief Building Official (CBO) and such inspectors as are necessary for the enforcement of the Act as detailed in the Ontario Building Code, Section 3(2).

Section 7(1)(c) of the BCA states that Council may pass a by-law requiring the payment of fees for:

- Application for and on issuance of permits;
- For maintenance inspections; and,
- For providing documents, records and other information.

The BCA also states that the total amount of the fees authorized under the Act must not exceed the anticipated reasonable costs of the municipality to provide these services.

In the spring of 2022, Council approved a three (3) year -phase-in of the fees and charges relating to the Building Division (see Schedule “E”). At the time, the City’s Fees relating to Building Services had not been updated in four (4) years and had fallen behind in the funds necessary to deliver the service as prescribed by the Act.

Analysis:

The following outlines the proposed changes to the Fees and Charges By-law, which are intended to ensure the fees and charges are up to date and facilitate a continued streamlining and clarity in the City’s development approvals process.

i. Pre-consultation Application Fees

Major vs. Minor

Service or Activity	Current Fee	Proposed Fee	Notes for New Fee
Pre-consultation (Standard)	\$500	\$1000	Per submission. Same fee for Subdivision, Condominium, Site Plan, Official Plan Amendment or Zoning By-law Amendment pre-consultation. Complete submissions and Decision timeline requirements as legislated by Bill 109 emphasize the importance of the pre-consultation process and therefore require more staff time and resources.
Pre-consultation (Minor Site Plan Approval)	None	\$300	Per submission for a pre-consultation preceding a minor site plan approval application requiring no other application types. Minor site plan approvals are:

			<ul style="list-style-type: none"> • Minor modification/variations to existing site plan approvals; or, • Site plan approvals for existing development without previous site plan approvals/agreements that do not require modification to the existing site layout.
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ii. Cash-in-lieu of Parkland

Based on vacant residential land sales in the City within the last two years, an updated contribution amount has been calculated that would apply to consent applications. The detailed information and data relating to these sales are included in Schedule "A". The fee has been calculated based on a calculation of the lesser of either frontage or area. The data in Schedule "A" is based on recent transactions.

This fee would apply primarily for individual (infill) lots created through consent at the Committee of Adjustment and reflects the fact that these lots are fully serviced with municipal services including water and sanitary sewer mains, and are accessed from open and maintained municipal roads.

Service or Activity	Current Fee	Proposed Fee	Notes for New Fee
Residential Cash-in-lieu of Parkland Dedication – Consent	None. As noted, this fee was not in the Fees & Charges By-law but implemented	\$803/m of frontage, <u>or</u> \$16/m ² of lot area	The lower rate shall be applied. The calculation shall be applied to the severed lot(s) where a consent application has been approved.

	<p>as a condition of Consent through the Committee of Adjustment.</p> <p>\$65/ m frontage or \$1.75/ m², whichever is lesser.</p> <p>Current fee example:</p> <p>Frontage fee \$65 x 10 m = \$650</p> <p>or</p> <p>Lot Area fee \$1.75 x 300 m² = \$525</p> <p>The cash-in-lieu of parkland dedication fee currently would be \$525.</p>		<p>A land sale valuation within the last two-years or appraisal by a qualified person are acceptable alternatives to determining the value of land for parkland dedication.</p> <p>For example, the proposed fee calculations would be applied to a severed lot having 10 m of frontage, 30 m of depth, a lot area of 300 m², and a land sale valuation of \$150,000 in 2021.</p> <p>Frontage fee:</p> <p>\$803 x 10 m (frontage) = \$8,030</p> <p>or</p> <p>Lot Area fee:</p> <p>\$16/ 300 m² (lot area) = \$4,800</p> <p>or</p> <p>A land sale valuation within the last two years (5% parkland conveyance for residential uses as per the Planning Act)</p> <p>0.05 x \$150,000 (valuation) = \$7,500</p> <p>The proposed fee structure requires that the City apply the lower rate, which in this</p>
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			example would be a cash-in-lieu of parkland dedication fee of \$4,800
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The proposed increase in parkland dedication fees reflect the provisions of the Planning Act. It merits note parks capital projects were removed prior to the current [Development Charges By-law 2020-112](#). In other words, no funds are collected under the *Development Charges Act* for parks or parks capital projects.

iii. Cash-in-lieu of Parking

City Policy CS46 implements the provisions of the Official Plan and Zoning By-law with respect to cash-in-lieu of parking. Cash-in-lieu of parking is not currently in the City’s Fees and Charges By-law. The use of cash-in-lieu of parking is limited as it applies only in the C1 zone where there is an expansion that generates a need for additional parking that cannot be met by the existing parking. While staff do not anticipate a significant increase in revenue, it is important to have the value of the contribution calculated at an appropriate amount. Zoning By-law Map 7, showing the lands Zoned C1, where cash-in-lieu of parking applies has been included as Schedule ‘D’ of the report.

Staff circulated a request to all municipalities in Ontario to survey cash-in-lieu of parking fees amongst other municipalities. Staff have used the data collected from the responses from other municipalities to propose a fee that is up to date and reflects comparably to neighbouring municipalities. The detailed data collected from the survey is provided in Schedule ‘C’ of the report.

Staff are recommending that the fee be added to the By-law at a rate of \$6000 per space.

Service or Activity	Current Fee	Proposed Fee	Notes for New Fee
Cash-in-lieu of Parking	\$3,000	\$6,000	Where there is an agreement pursuant to the Planning Act for any lands within the C1 zone as defined in the City’s Zoning By-law 20210-078, and an agreement is

			proposed and deemed acceptable to the Planning & Heritage Division.
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Building Division Fees

The City has a Chief Building Inspector, Deputy Building Inspector and Inspector/Plans Examiner. A Development Coordinator position is shared with the Planning & Heritage Division. With the volume of building activity and numbers of mandatory inspections and plans reviewed, the staffing level can not be reduced. Additionally, the addition of Cloud permitting will require significant time and resources from staff within the Division to implement.

In the last few years, the City has relied on a transfer of reserves (from the Building reserve) to ensure that the Division is funded at no cost to the taxpayer. The reserve balance is being reduced and in 2022, an update to the Fees and Charges By-law established a three (3)-year plan to increase the fees.

At the time, the three (3) year schedule was based on comparing the City fees to our neighbours and the actual cost of providing the service.

In order to ensure that the City fees do not fall behind, it is recommended that the 3-year schedule be compressed into 2 years such that 2023 would implement the fee originally approved for 2024.

In 2022 there was no negative feedback on the new fee schedule and staff have not received negative feedback on the new fees.

If excess revenue is generated based on the shorter implementation schedule, the funds would be held in the Building Division for future use by that Division and not committed to other areas or reserves.

Financial Implications:

The proposed amendments to the Fees and Charges By-law No. 2022-066.

The use of cash in lieu of parking is limited in application as it applies only in the C1 zone where there is an expansion that generates a need for additional parking that can not be met by the existing parking. While staff do not anticipate a significant increase in revenue, it is important to have the value of the contribution calculated at an appropriate amount.

Communication Strategy:

Staff circulated a request to all municipalities in Ontario to share their cash-in-lieu of parking fees.

The City is required to give notice of proposed amendment to the Fees and Charges By-law in advance of the by-law being approved. This will be done by giving notice on the City's website at least ten (10) days before the Council meeting where the by-law will be considered. If feedback is provided within that time, it will be brought forward for Council consideration.

Consultation:

The application was circulated to various City Departments and our commenting agencies as part of the consultation process.

The report was reviewed by the Manager of Legislative Services who normally prepares the updates to the Fees and Charges By-law.

Planning Staff have confirmed with the City's Solicitor that the proposed cash-in-lieu of parkland dedication fee model is consistent with Planning Act, so long as the value of the cash-in-lieu fee is not more than the estimated value of 5% of the value of the actual lot.

Attachments:

Schedule 'A': Land Valuation Data for Parkland Dedication

Schedule 'B': S. P. NO: CS46 Cash-in-lieu of Parking, 1989

Schedule 'C': Downtown Cash-in-lieu of Parking Comparison Among Ontario Municipalities

Schedule 'D': Current City of Owen Sound Building Division Fees (2022-2024).

Prepared and Recommended by:

Jocelyn Wainwright, Junior Planner

Pamela Coulter, Director of Community Services

Submission approved by:

Staff Report CS-22-155: Update to Fees and Charges By-law No. 2022-066 regarding Pre-Consultation, Cash-in-lieu of Parkland Dedication, and Cash-in-lieu of Parking Fees

Tim Simmonds, City Manager

For more information on this report, please contact Jocelyn Wainwright at jwainwright@owensound.ca or 519 376-4440 ext. 1250.