



PO Box 1749
Halifax, Nova Scotia
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Item No. 11.1.3
Halifax Regional Council
June 22, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

A handwritten signature in cursive script, appearing to read "Dan English".

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: June 7, 2010

SUBJECT: **By-Law S-309: Amendments to By-Law S-300 Respecting Streets**

ORIGIN

Staff and items 13.1 (u) and 13.1 (z) of the May 25, 2010 Halifax Regional Council meeting.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the proposed fee structure for permits related to activities within the public right-of-way as outlined in this report and begin the formal process for the adoption of By-Law S-309, Amendments to Streets Bylaw S-300 and associated amendments to Administrative Order 15 as set out in Attachments A and B of this report.

BACKGROUND

Before performing work within the public right-of-way, contractors, organizations and utility operators are required under the Streets By-Law (S-300) to obtain a Streets and Services Permit. The current fee of \$100.00 charged for this permit is intended to cover administrative costs to HRM which include review and processing of the permit application, review of any associated plans and inspection services once the project is underway. Revenue generated from permit applications is used to help fund staff resources required for permit administration.

In addition to the Streets and Services Permits, there are several other permits that currently do not have a fee associated with them. These include Utility Permits, Halifax Water sewer lateral renewals, overhead banners and street closures for block parties. Although there is currently no fee being charged, varying degrees of staff time is still required for associated processing, administration and inspection activities, resulting in a cost to HRM.

The Streets By-Law was adopted by Council in 1997. At that time the fee for a Streets and Services Permit was set at \$75.00. The following year (1998) the fee was amended and increased to \$100.00 where it has remained for the last twelve years.

DISCUSSION

There are many different activities that occur within the right-of-way for which a Streets and Services Permit is required, each involving varying levels of staff effort to process and administer. Annual Streets and Services Permits are also issued to the various utilities for the purpose of carrying out work related to service emergencies and routine maintenance. In addition, many utilities such as Halifax Water, Heritage Gas, Nova Scotia Power and telecommunications companies such as Aliant, Eastlink and Internetworking are also carrying out work within the public right-of-way under Utility Permits.

The current fee charged for a Streets and Services Permit is \$100.00 (single project) or \$1000 (annual permit) and Utility Permits have no fee associated with them. Depending on the activity type being carried out under a Streets and Services Permit, the level of staff involvement can range from simple application processing services to extensive plans examinations and multiple site inspections. Similarly, some major utility projects take place that necessitates ongoing staff involvement and site inspection in order to ensure HRM interests are protected. Because no fee is charged, this amounts to a subsidization of this activity by the property tax payer.

Regardless of whether work is being carried out under a Streets and Services or Utility Permit, given the current resources available, there is often less than adequate review and/or inspection. Adequate quality assurance and quality control through increased review and inspection services should be required in order to ensure compliance with the permit conditions and adherence to HRM specifications as it relates to any construction or restoration work within the public right-of-way.

This results in additional street pavement impacts when there are already insufficient budget resources to maintain the streets at the desired SDI index.

Based on resources available under the current fee structure, many permit applications are limited to only a general review and cursory inspection. In order to provide the desired level of consistency and quality control, consideration needs to be given to adjusting the current fee structure. As previously stated, different application types often require differing levels of staff effort and involvement and so a new fee structure designed to effect cost recovery should be based on the complexity of the application and potential staff time required.

Proposed Fee Structure

Not every project or application would require the same level of staff involvement. The fees being proposed under the revised structure were arrived at using an estimation of costs to review and process a permit application and provide inspection. Estimates were based on current salary and mileage rates for HRM staff responsible for processing, review and inspection services in order to administer the permits. Four levels of complexity were evaluated.

Level 1 Complexity

This type of project would be the simplest application type. It is reasonable to assume that applications at this level would require a minimum of one hour for the Engineering Assistant to review and process for approval. In addition to the processing time, it would also be reasonable to assume at least one site visit, requiring a minimum of one hour plus mileage.

Based on current salaries and mileage rates with an estimated 25 km of travel, the cost to HRM to provide the desired level of review and inspection would be approximately \$125.00.

Level 2 Complexity

A somewhat more complex application that could require an initial site visit by the Engineering Assistant before the application can be processed plus an additional visit during or upon completion of the project for inspection purposes. In total, staff time required for this type of application can be reasonably estimated at approximately four hours with approximately 50 km of travel.

Similar to a Level 1 project, the cost to HRM to provide adequate quality control based on current salaries and mileage rates, was estimated to be approximately \$200.00.

Level 3 Complexity

Applications at this level of complexity would typically require several hours of consultation and review by the Engineering Assistant. These projects also typically require involvement by the Right-

of -Way Engineer, engineering staff from other sections (i.e., Design & Construction, Traffic Services, etc.) and multiple site inspections. These permit applications involve the full range of staff review and inspection and could reasonably require a minimum of two hours for engineering review, 10 hours for the Engineering Assistant / Inspector and 200 km of travel.

Using the same calculation that was used for Level 1 and Level 2 applications, the estimated cost to adequately review, process and administer applications of this type would be approximately \$700.00.

Level 4 Complexity

Projects that would fall under this level of complexity require the highest level of staff effort and involvement to ensure requirements are met and procedures are properly followed. Given the potential complexity of these projects, the need for ongoing involvement by multiple staff members from multiple sections/business units and the likelihood for increased travel required for inspections, projects at this complexity level should be charged on a tracked staff time basis. Charges would be determined based on current salary and mileage rates and invoiced to the applicant on a regular basis over the course of the project.

In addition to the adjustment in the permit fees, an inspection fee is also being included to account for staff time required to provide proper inspection of work carried out under Annual Streets and Services Permits. The current fee for an Annual Streets and Services Permit is \$1000.00 and based on current salaries and mileage rates, this fee should be sufficient to offset processing and a limited number of site inspections. For those organizations who undertake a large amount of work within the right-of-way under their annual permit, however, the cost to inspect this work to ensure proper requirements are met would be recovered through an inspection charge of \$65.00 per site visit. To gauge the applicability of an inspection fee as part of the Annual Streets and Services Permit, information was obtained from Halifax Water of the number of road cuts performed under their annual permit. In 2009 there were a total of 2,300 cuts made as a result of routine operation and maintenance work. This represents a significant impact to HRM infrastructure and measures should be in place to ensure assets are protected.

In previous years, the utility companies who performed roadway cuts as part of their operations were required to maintain those sections of roads disturbed as a result of their activities via a Future Settlement Charge. Now, with the rollout of the Pavement Impact Charge, HRM will assume responsibility for maintenance once construction is complete. With the potential for 2,300+ cuts, it would be in the Municipality's best interest to ensure all reinstatements are carried out to the proper specification to avoid ongoing maintenance issues. To do this, added/increased inspection services are required to be supported by the proposed inspection fee included as part of the Annual Streets and Services Permit requirements.

Upon evaluation of the above, it is evident that the cost of staff resources required to process even the simplest application is not recovered with the current permit fee of \$100 and there is no cost

recovery at all when work is carried out under a Utility Permit, as there is currently no fee associated with these permits. In addition, there is also a large amount of construction activity carried out under the Annual Streets and Service Permits that are subject to little, if any, design approval or inspection. To ensure a consistent approach and adequate quality control, staff resources would have to be increased, or even introduced in some cases, with the cost recovered from those operating in the street.

For comparison, permit fees charged by other municipalities for similar work were reviewed. Processing methods varied but, in general the majority of fees were higher than HRM. The following tables provide information on fees charged by other jurisdictions and how they compare to those being charged by HRM for similar services.

City of Edmonton

Permit	Description	Fees	HRM Fee
On-Street Construction and Maintenance	Required for the majority of work covered under the HRM Streets & Services Permit	NC	\$100
Utility Line Assignment	Requirement similar to that of HRM Utility Permit	\$256 (min) \$1,120 +	NC
Curb Costing	Required for driveway access	\$150	\$100
Café	Required for erection of sidewalk café	\$366 (application)	\$100
Oversize Moves	Required for movement of over-sized vehicle on public roads	NC	\$100
Street Closure	Required for block parties	\$40	NC

City of London

Permit	Description	Fees	HRM Fee
City Work Approval	Required for the majority of work covered under the HRM Streets & Services and Utility Permit	\$275	\$100
Oversize Move	Required for movement of over-sized vehicle on public roads	\$125 (annual)	
Sidewalk Café	Required for erection of sidewalk café	\$200 (admin)	

City of Moncton

Permit	Description	Fees	HRM Fee
Streets and Services Permit	Required for the majority of work covered under the HRM Streets & Services Permit	\$100 (application) \$250 (admin) or 15% restoration	\$100
	Required for curb cuts for driveways	\$50 (application) + cost of work	\$100
Utility Permit	Required for construction of facilities in or on a street	\$250 or staff time (plans examination)	NC

City of Ottawa

Permit	Description	Fees	HRM Fee
Road Cut	Required for excavations in the street	\$290	\$100
Over-Dimensional Vehicle	Required for movement of over-sized vehicle on public roads	\$60 (single trip) \$200 (annual)	
Outdoor Patio	Required for erection of sidewalk café	\$253	
Private Approach	Required for driveway access	\$121 - \$541	
Special Event	Required for road closure for events	NC	NC

It should be noted that other fees may apply, such as a pavement degradation fee which is similar to HRM's pavement impact fee currently included in By-Law S-300. In addition to the permit fees, many other municipalities also require fees for the review of plans and site inspections which are separate from permit application fees. It is also important to note that although some municipalities may not charge a fee for some of their permit types, i.e., street closures for block parties or oversize moves, their other permit fees are higher than those currently being charged by HRM and, in many instances are also higher than the fees being proposed in this report. In the case of the City of Edmonton, their permit fees are higher, in some cases substantially, than those being proposed here which provide the revenue to offer other permits at a reduced fee. Edmonton also charges utilities an occupancy fee for facilities within the public right-of-way on a linear basis with fees ranging from \$5.32/m for areas outside the downtown to \$42.56/m within the downtown and on bridges and \$21.28/m for roadway crossings.

Based on the discussion in this report, the following table presents a potential fee structure to be used for Streets & Services Permits.

	Current Fee	Complexity	Proposed Fee
Natural Gas	Staff Time	a. Laterals 2	\$200
b. Mains < 20 m		2	\$200
c. Mains < 21 m - 500 m		3	\$700
d. Mains > 500 m		4	Staff Time
Water Laterals	\$100.00	2	\$200.00
Major Utility Projects	\$100.00	4	Staff Time
Driveway Access/Culverts	\$100.00	2	\$200.00
Utility Poles/Anchors	No Charge	1	\$125.00
Oversize Moves	\$100.00	1	\$125.00
Sidewalk Cafes	\$100.00	2	\$200.00
Street Closure (Construction)	\$100.00	2	\$200.00
Overhead Lines	\$100.00	1	\$125.00
Monitor Wells/Boreholes	\$100.00	1	\$125.00
Rickshaws	\$100.00	2	\$200.00
Street Tours	\$100.00	2	\$200.00
Street Closure (Special Event)	No Charge	1	\$125.00
Overhead Banners	No Charge	1	\$125.00
Sewer Laterals	No Charge	2	\$200.00
Underground Conduit	\$100.00	2	\$200.00
Refuse Container	\$100.00	1	\$125.00
Transit Shelters / Benches	\$100.00	1	\$125.00
Temporary Work in ROW	\$100.00	1	\$125.00
Inspection Fee	N/A	N/A	\$65.00

In addition to the proposed fee structure, housekeeping amendments to the current Streets By-law are being proposed in order to move fees from the By-Law to Administrative Order 15, remove requirements related to sewer/water service connections which no longer lie within HRM responsibility and to clarify the time frame regarding the pavement cut moratorium. All proposed amendments are included in Attachments A and B.

It should be noted that there may be difficulties achieving agreement on the implementation of some of the proposed fee increases. For example, non-profit groups may not be happy with fees being charged for activities they are currently not charged for (i.e., street parties or overhead banners). The

proposed fee structure was presented, in draft form, to the various utility operators at a meeting of the Halifax Utility Coordination Committee (HUCC) on March 12, 2009. The intent was to seek input and gauge reaction to the proposed fee increases and, although no group likes to see fees increase, there were no major objections or concerns to the proposed fees.

BUDGET IMPLICATIONS

Based on the proposed fee structure as outlined in the Discussion section of this report and number of permit applications from the previous year for each activity type, the potential increase in revenue is estimated to be **\$256,375.00**. The 2010-11 budget included \$120,000 for the increased fees, excluding the inspection charges. This assumed that the fees would be collected starting in April. Given the delay implementing the change, the estimate for the non-inspection charges has been reduced in the table provided below. This does not include revenue generated from natural gas activities or potential revenue from Level 4 Complexity projects where charges would be based on tracked staff time. The following table outlines how this potential revenue is generated:

Activity Type	Number of Permits (approximate)	Fee Increase	Additional Revenue
Water Laterals	75	\$100.00	\$7,500.00
Major Utility Projects	-	Staff Time	-
Driveway Access/Culverts	75	\$100.00	\$7,500.00
Utility Poles/Anchors	200	\$125.00	\$25,000.00
Oversize Moves	70	\$25.00	\$1,750.00
Sidewalk Cafes	30	\$100.00	\$3,000.00
Temporary Street Closures	50	\$100.00	\$5,000.00
Overhead Lines	15	\$25.00	\$325.00
Monitor Wells/Boreholes	10	\$25.00	\$250.00
Rickshaws	5	\$100.00	\$500.00
Street Tours	2	\$100.00	\$200.00
Street Closures for Special Events	75	\$125.00	\$9,375.00
Overhead Banners	15	\$125.00	\$1,875.00
TUGS Laterals	200	\$200.00	\$40,000.00
Underground Conduit	25	\$100.00	\$2,500.00
Refuse Container	2	\$25.00	\$50.00
Transit Shelters / Benches	2	\$25.00	\$50.00
Temporary Work in ROW	80	\$25.00	\$2,000.00
Inspection Charges	2300	\$65.00	\$149,500.00
		Total	\$256,375.00

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Community engagement was not deemed to be necessary in this process because current operational procedures for public hearing and adoption of by-law amendments already encompasses notification of the public and enables the opportunity for public feedback. Those that are impacted more due to the high volume of applications such as Utilities have been engaged through HUCC.

ALTERNATIVES


There are no recommended alternatives.

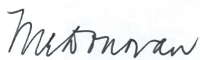
ATTACHMENTS


Attachment A - Proposed By-Law S-309, Amendments to Streets By-Law S-300
Attachment B - Proposed Amendments to Administrative Order 15


A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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S-309
Attachment A
Proposed Amendments to Streets By-Law (S-300)

HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER S-309
RESPECTING STREETS

BE IT ENACTED by the Council of Halifax Regional Municipality that By-Law S-300 Respecting Streets be amended as follows:

1. Section 3 is amended by removing the words “as well as water services” from the definition of (i) municipal infrastructure.
2. Subsection 23 (1) is amended by deleting clause (b) and reordering clause (d) to replace clause (b) and also deleting clause (c) and replacing it to read as follows:
 - (c) make use of the street, or any portion thereof, for any activity other than as a right of way or a use already regulated under this or any other by-law of the Halifax Regional Municipality,
3. Subsection 23 (2) is deleted and replaced to read as follows:
 - (2) Every Streets and Services permit application shall include the appropriate application fee, dependant upon the type of activity to be undertaken, as specified in Administrative Order 15.
4. Clause 24 (1) (c) is deleted and replaced to read as follows:
 - (c) for excavations outside the paved portion of the street, a non-refundable maintenance fee as specified in Administrative Order 15.
5. Subsections 25 (1) and 25 (2) are deleted and replaced to read as follows:
 - (1) The Engineer may grant a periodic or annual Streets and Services Permit to a utility for the purpose of service emergencies and routine maintenance including pavement patching related thereto which require excavation in municipal streets, subject to such conditions as the Engineer may determine, and, without restricting the generality of the foregoing, any such permit shall require that the Engineer be informed of the location, contractor and time of such work prior to its commencement and that the contractor provide liability insurance in accordance with subclause 28 (h)(i).

- (2) Applications for annual Streets and Services permits shall include the appropriate application fee and security deposit in the amounts specified in Administrative Order 15.
6. Section 25 is further amended by adding the following subsection (6):
- (6) All work carried out under an annual Streets and Services permit is subject to inspection by the Municipality and said inspection is subject to an inspection fee as set out in Administrative Order 15.
7. Subclauses 28 (h)(i) and 28 (h)(ii) are deleted and replaced to read as follows:
- (i) the applicant shall provide and maintain public liability insurance in an amount as outlined in Administrative Order 15, such insurance shall indemnify the Municipality and its employees from any and all claims made as a result of the excavation, and the Municipality shall be named as an additional insured;
- (ii) where the applicant is a utility and can satisfy the Municipality that it is financially capable of responding to a claim in the amount set out in Administrative Order 15 without the benefit of insurance, the utility need not provide proof of insurance as set out in clause (i) but shall save the Municipality and its employees harmless in the event any claim is made as a result of the excavation.
8. Clause 28 (j) is amended to add the word “calendar” in order to update the phrase “...shall not be permitted for two years....” to read “...shall not be permitted for two **calendar** years....”
9. Subsection 30 (2) is deleted and replaced to read as follows:
- (2) Where an obstruction may cause damage to the street, the Engineer may require a security deposit in the amount specified in Administrative Order 15, such deposit to be held until the Engineer is satisfied that no damage has occurred to the street after the obstruction has been removed.

Done and passed in Council this ___ day of _____, 2010.

MAYOR

Acting Municipal Clerk

I, (Municipal Clerk), Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on _____, 2010.

Cathy Mellett, A/Municipal Clerk

Notice of Motion:

First Reading:

Notice of Public Hearing - "Publication":

Second Reading:

Approved by Service Nova Scotia and Municipal Relations:

N/A

Effective Date:

S-309
Attachment B
Proposed Amendments to Administrative Order 15

HALIFAX REGIONAL MUNICIPALITY
AMENDMENT TO ADMINISTRATIVE ORDER NUMBER 15

Respecting License, Permit and Processing Fees

BE IT ENACTED by the Council of Halifax Regional Municipality that Administrative Order 15 Respecting License, Permit and Processing Fees be amended by amending Section 19 as follows:

Delete entire Section 19 and replace with the following:

<u>By-Law #</u>	<u>Short Title</u>	<u>Section</u>	<u>Fee</u>
S-300	Streets	23(2)	Activity
			Lateral Connection - Main
			Renew Lateral Connection - Main
			Sewer Cap Off
			Water Lateral Cap
			Water Lateral Main to Prop
			Extension to Sewer Main
			Sewer Main Repair
			New Watermain
			Watermain Relining
			Watermain Renewal
			Culvert
			Curb / Sidewalk Cut
			Utility Pole Support Anchor(s)
			Utility Pole Installation
			Replace Utility Pole
			Oversize Move
			Sidewalk Café
			Temporary Closure - Crane
			Partial Closure - Crane
			Partial Closure - Movie
			Temporary Closure - Movie
			Partial Closure - General
			Temporary Closure - General
			Overhead Power Lines
			Overhead Telecom Lines
			Monitor Well / Borehole
			Rickshaws
			Special Event

Overhead Banner	\$125.00
Lateral Connection - Prop Line	\$200.00
Renew Lateral Connection - Prop	\$200.00
Water Lateral Renewal	\$200.00
Buried Electrical Lateral	\$200.00
Buried Electrical Main	\$200.00
Buried Telecom Lateral	\$200.00
Buried Telecom Main	\$200.00
Newspaper Boxes	\$125.00
Refuse Container	\$125.00
Advertising Benches	\$125.00
Kiosk / Booths	\$125.00
Transit Shelter	\$125.00
Capital Project	\$125.00
Repairs to Street Surface	\$125.00
Repairs to Sidewalk	\$125.00
Road Construction	\$125.00
Temp Workplace Adjacent to ROW	\$125.00
Temporary Workplace on ROW	\$125.00
Natural Gas Lateral	\$200.00
Natural Gas Main (< 20 m)	\$200.00
Natural Gas Main (21 m < 500 m)	\$700.00
Natural Gas Main (> 500 m)	Staff Time

24(1)(a) \$1000.00 Security Deposit

24(1)(b)	SDI	Fee
	(Percentage of Pavement Reinstatement Cost)	
	8.5-10	30%
	7.0-8.5	25%
	6.0-7.0	20%
	4.0-6.0	15%
	0.0-4.0	5%

24(1)(c) 15% of total restoration cost based on current unit prices.

25(2) \$1,000.00 Application Fee
\$20,000.00 Security Deposit

25(6) \$65.00 per inspection

28 (h)(i) \$2 million per occurrence
(ii) \$2 million per occurrence

30(2) \$1000.00 Security Deposit

Done and passed in Council this __ day of _____, 2010.

MAYOR

Municipal Clerk

I, (insert name), Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted Administrative Order amendment was passed at a meeting of the Halifax Regional Council held on _____, 2010.

(insert name), Municipal Clerk

Amendment No 19

Addition to schedule
(By-Law S-309 Streets)

Notice of Motion:

Approval:

Effective Date: