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Item No. 14.1.6
Halifax Regional Council
August 15, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Brad Anguish, Acting Chief Administrative Officer

DATE: July 27, 2017

SUBJECT: Stormwater Right-of-Way (ROW) Charge By-Law

ORIGIN

Halifax Regional Council, February 21, 2017:

THAT Halifax Regional Council direct staff to draft a by-law setting a stormwater charge based on the Halifax Water service area and that staff return to Council for consideration of it and request Halifax Water to collect the Stormwater Right-of-Way charge on the water bill.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, subsection 104(1):

104 (1) The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

- (a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems;

RECOMMENDATION

It is recommended that Halifax Regional Council adopt By-Law C-900, the *Charges for Stormwater from Municipal Streets By-law*, as set out in Attachment 1 of this report.

BACKGROUND

Stormwater is the precipitation that comes from rain, snow and other weather events. In the natural environment it evaporates, runs off into streams or is absorbed into the soil. In developed environments the concrete, gravel and pavement re-direct the stormwater and prevent its absorption into the environment. Hence municipalities have systems of drains, curbs, stormwater pipes and ditches that help prevent flooding and pollution of water courses.

In Halifax, Stormwater services were originally provided directly by the municipality and were paid for through a user fee on the water bill. This levy was in addition to the water service and was only paid for by those who had central water, even though the service was provided across the stormwater area. In 2007 Stormwater services (and Sanitary Sewer services) were transferred to Halifax Water and became subject to regulation through the Nova Scotia Utility and Review Board ("NSUARB").

In 2013, the NSUARB reviewed the rates for stormwater submitted by Halifax Water and approved a site-related flow charge to pay for most of the stormwater costs. These rates were to be paid for by all residents and businesses within the Stormwater Service Area, including those not on central water. In addition, because HRM's roadways cause water runoff, the NSUARB ordered that HRM pay to Halifax Water \$3.9m, annually, towards the cost of Stormwater. HRM is required to pay this money.

Collection of the Stormwater ROW Charge (to date)

In 2013-14, HRM paid this unexpected cost using surplus funds that were remaining at the end of the year. On January 14, 2014, however, Halifax Regional Council decided to levy a new Stormwater ROW charge of \$39 per account on those properties that paid the Halifax Water Stormwater Charge, using their (site-related) stormwater methodology. For administrative simplicity, it asked Halifax Water to collect the new Stormwater ROW charge, starting April 1, 2014. Those that paid the Halifax Water charge or were exempted from the charge would also pay or be exempted from the additional HRM charge.

On June 23, 2015, Regional Council discussed alternatives to the HRM Stormwater Charge. It decided to instead place a flat tax of \$42 (uniform charge) on each taxable property assessment account within the service area, including properties not then paying the Halifax Water charge and those that had been exempted. The new uniform charge was to be collected on the HRM tax bill, starting in 2016-17. As required by the HRM Charter, all taxable properties had to pay the levy. Unlike most of HRM's taxes, however, the levy was a flat amount (uniform charge).

In the summer of 2016, when the new \$42 per taxable assessment account tax was applied to all HRM properties, several unintended consequences appeared:

- More than 800 condo owners, who had previously paid the stormwater charge once for the entire condo building, were now paying the tax on separately deeded properties – living space, parking space and/or storage space – that were essentially parts of the same dwelling. (Apartment buildings continued to pay only \$42 per building).
- Likewise, individual mobile homes (in parks) had paid just once per park when on the water bill, similar to apartments. They now had to pay for each mobile home.
- Many small properties saw a significant increase in their tax bill. For example, a residential property with an assessed value of \$3,500 saw its tax bill double from the prior year.

As expected, the 4,400 properties that had been exempted from the Halifax Water site-related charge, and not billed the Stormwater ROW charge, were now paying through their tax bill.

On October 4th, 2016, Regional Council requested a staff report looking at possible changes to the new levy. Most of the requested changes would essentially reverse the decision of June 2015 and again charge residents on the same basis as the Halifax Water site-related flow charge.

On November 8th, 2016, a staff report on Stormwater Right-of-Way Funding Options was provided to Regional Council that outlined three options for the funding of the approximate \$3.9 million charge payable annually to Halifax Water for the stormwater services provided for HRM-owned streets, i.e. HRM

rights-of-way. The staff report highlighted the limitations of property taxation and related legislation in setting criteria for the selection of properties for taxation, concluding that it would be very difficult and potentially costly for the Municipality to attempt to duplicate the previous Halifax Water billing through a municipal property tax.

The options provided were limited to two options using existing general tax rates, plus a third option, to return the billing to Halifax Water. Regional Council debated the alternative and asked staff to instead develop an area rate based on the assessed value of taxable properties within the Halifax Water (HW) service boundary.

On February 21, 2017, Halifax Regional Council discussed a staff report, which recommended that the Stormwater ROW Charge be collected as an assessment-based area rate on all taxable properties within the Halifax Water Stormwater service area. The assessment-based approach would have mitigated most of the undesirable effects of “stacking” seen in 2016-17. Regional Council did not approve the recommendation but rather asked staff to look into collecting the charge through Halifax Water on their water bills, an approach used from April 2014 to March 2016. Regional Council also directed staff to draft a by-law setting a stormwater charge based on the Halifax Water service area and that staff return to Council for consideration of it.

Also on February 21, 2017, Halifax Regional Council approved the refund of 2016-17 stormwater charges on 2,723 “stacked” condo and mobile home accounts. The refunds were applied to the respective accounts prior to the interim tax billing of April 2017.

DISCUSSION

Since the initiation of the Stormwater charges in 2013, there has been significant confusion. Part of it is due to the two stormwater charges put in place by the NSUARB: one charge is in relation to stormwater runoff from properties into the stormwater system and a second separate charge for HRM (\$3.9 million annually) based on the stormwater flow from municipal roads. The distinction between the two charges has not been fully clear to many Halifax region property owners. The solution for the Stormwater ROW charge must be simple and should not create undo complexity, when looked at next to Halifax Water’s (site-related) stormwater charge.

Changes to the Site-Related Stormwater Charge

Halifax Water has recently changed the way it collects its portion of stormwater costs from their customers. HRM staff has been working closely with their Halifax Water counterparts to create a billing approach that will be efficient for Halifax Water to put in place and easy for Halifax residents to understand.

The Halifax Water (site-related) stormwater charge is collected from single-family homes based on the “footprint” of the home and driveway, as well as any other impervious surfaces (hard surfaces that water would run off). Under the new approach, these properties were grouped into five categories or tiers, based on size.

On the Halifax Water website, the “New Annual Charge” is shown for each of the five tiers, along with the number of residential customers in each category:

Tier	Impervious Area	Previous Charge	New Annual Charge	No. of Residential Customers
Tier 1	less than 50 m ²	\$33.39 per home	\$0.00	2,326
Tier 2	50 m ² - 200 m ²	\$33.39 per home	\$14.00 per home	44,710
Tier 3	210 m ² - 400 m ²	\$33.39 per home	\$27.00 per home	31,041
Tier 4	410 m ² - 800 m ²	\$33.39 per home	\$54.00 per home	7,768
Tier 5	810 m ² or more	\$33.39 per home	\$81.00 per home	2,123

Note that for the "Tier 1" properties, i.e. those with less than 50m² of impervious area, the Halifax Water Stormwater charge is \$0.

For businesses, large apartments and institutions, the Halifax Water (site-related) stormwater charge is based on the specific impervious area of each property at a rate of \$0.135 per m². So, a 10,000m² (108,000 square foot) shopping plaza (including parking lot) would pay \$1,350 to Halifax Water for their (site-related) stormwater charge.

Options for HRM's Stormwater ROW Charge

To align with the Halifax Water billing system, two basic options have been developed for HRM to collect its required stormwater revenue in 2017-18.

Uniform (Per Customer) Billing

The first option for the Stormwater ROW charge is to use one common charge for all properties billed by Halifax Water. This is very similar to what had been done from April 2014 to March 2016. With this approach, the same properties would pay the Stormwater ROW charge as in the new Halifax Water charge, but the amounts would not vary by tier (total impervious area) or property type.

The following rate would be required to collect \$3,846,611 for HRM in 2017-18:

Residential Tier	Impervious Area	Site-Related Charge (Halifax Water)	Stormwater ROW Charge (HRM)
Tier 1	less than 50 m ²	\$0.00	\$0.00
Tier 2	50 m ² - 200 m ²	\$14.00 per home	\$39.00 per home
Tier 3	210 m ² - 400 m ²	\$27.00 per home	\$39.00 per home
Tier 4	410 m ² - 800 m ²	\$54.00 per home	\$39.00 per home
Tier 5	810 m ² or more	\$81.00 per home	\$39.00 per home
Non-Residential Properties¹	50 m ² or more	\$0.135 per m ²	\$39.00 per property

1. Non-Residential Properties include institutional, commercial, industrial and some residential properties, such as large apartments, condos and mobile home parks.

Matched Billing

A second option for the Stormwater ROW charge would be to mirror the same billing methodology as Halifax Water using five tiers although at lower rates. As with the first approach, any properties exempted from the site-related stormwater charge would not pay the HRM stormwater ROW charge. Using Halifax Water's methodology for the HRM charge would simplify the billing for customers.

The following rates would be required to collect \$3,846,611 for HRM in 2017-18:

Residential Tier	Impervious Area	Site-Related Charge (Halifax Water)	Stormwater ROW Charge (HRM)
Tier 1	less than 50 m ²	\$0.00	\$0.00
Tier 2	50 m ² - 200 m ²	\$14.00 per home	\$10.00 per home
Tier 3	210 m ² - 400 m ²	\$27.00 per home	\$19.00 per home
Tier 4	410 m ² - 800 m ²	\$54.00 per home	\$38.00 per home
Tier 5	810 m ² or more	\$81.00 per home	\$50.00 per home
Non-Residential Properties¹	50 m ² or more	\$0.135 per m ²	\$0.095 per m ² (to max \$2,500)

1. Non-Residential Properties include institutional, commercial, industrial and some residential properties, such as large apartments, condos and mobile home parks.

In this option, the Stormwater ROW charge is equal to 70% of the Halifax Water charge, for each category. The residential tiers are rounded to the nearest dollar to facilitate quarterly billing. The non-residential rate is rounded to the nearest half cent.

To reduce property-specific impacts while moving to this approach, especially on large commercial and multi-unit residential properties, the matched billing approach would cap the top 2% of residential properties (Tier 5 homes) at \$50 and the top 2% of non-residential properties at \$2,500.

Changes in Stormwater ROW Rates

Due to changes in HRM payment requirements, as set out by the NSUARB from time to time, or Halifax Water's customer base or level of appeals, the Stormwater ROW rates will need future adjustments. Payment requirements and revenues received will be reviewed by HRM Finance staff each year and any required rate changes will be communicated to all stakeholders including Halifax Water and property owners within the stormwater service area. Once the billing system is in place, rate adjustments should not be required more than once every 3 to 5 years.

Conclusion

Staff have concluded that while both approaches are acceptable, the Uniform Charge approach is the most straightforward to adopt and implement, although it does create a few unusual situations. For instance, the majority of residences would pay a higher charge to HRM than to the Water Commission for the site-related charge. The two approaches also differ significantly in how larger properties are charged. The uniform charge approach bills all commercial properties a flat amount. The matched approach charges small commercial properties less while placing a higher burden on those commercial properties with large impervious surfaces, even though they may not have significant road frontage.

Next Steps

Following first reading of the by-law, staff will schedule and advertise a second reading. The second reading will take place during a regularly-scheduled Halifax Regional Council meeting and does not require a public hearing. Following adoption of By-Law C-900, Halifax Water will prepare their billing system to collect the 2017-18 Stormwater ROW charge on the Halifax Water bills commencing in the fall of 2017. Since this decision will be provided to Halifax Water roughly mid-year in the fiscal year, and customers are billed on a variety of cycles, some retroactive adjustments may be required to customer accounts, or the 2017-18 Stormwater ROW Charge may be pro-rated over the remaining bills in the fiscal year.

FINANCIAL IMPLICATIONS

This report does not affect the amount the Municipality is required to pay Halifax Water for Stormwater ROW services in 2017-18 or future years. However, there will be a one-time cost (in 2017-18) for Halifax Water to set up the billing software and forms for HRM's Stormwater ROW charge. These set-up costs are estimated to be \$10,000 (uniform charge) to \$23,000 (matched billing), depending on the programming required, and will be funded from the Stormwater ROW revenues as well as any remaining surplus from past years. The new By-law will help communicate and stabilize the collection of HRM's required Stormwater ROW revenues going forward.

RISK CONSIDERATION

The proposed billing approach set out in By-Law C-900 is expected to ultimately reduce customer confusion and the incidence of non-payment. However, during the 2017-18 transition to the new billing approach, HRM and Halifax Water staff will need to work together to clearly communicate the changes.

The collection of the Stormwater ROW charge on the water bill will need to be approved by the Halifax Water Board. The Board had previously approved billing a uniform charge on HRM's behalf, but will require the opportunity to review Regional Council's approved approach for 2017-18 and onward.

COMMUNITY ENGAGEMENT

HRM staff will advertise the changes in collection approach approved by Regional Council, in cooperation with Halifax Water and HRM Corporate Communications.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications. This By-law will not impact the delivery of Stormwater Services by Halifax Water. The Stormwater ROW charge will be calculated after the application of Halifax Water Stormwater credits, encouraging good stormwater management.

ALTERNATIVES

1. Regional Council could choose the Matched Billing approach. If Council selects this alternative, the draft By-law would need to be amended which could be accomplished by passing the following motion:

Sections 3 and 4 of Attachment 1 are amended by striking out the sections and adding new sections 3 and 4 as follows

Charge Imposed

3. A charge is imposed on a Customer of the Stormwater System.

Amount of Charge

4. (1) The amount of the charge for each Customer is fixed at seventy percent (70%) of the annual amount of the Site Related Flow Charge charged by the Commission to each Customer, to a maximum per annum of fifty dollars (\$50) for residential Customers and two thousand five hundred dollars (\$2,500) for non-residential Customers.

- (2) For residential Customers, the amount of the annual charge pursuant to subsection 1 shall be rounded to the nearest dollar (\$1.00).

ATTACHMENTS

Attachment 1 - By-Law C-900, Charges for Stormwater from Municipal Streets By-law

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Andre MacNeil, Senior Financial Consultant, 902.490.5529

Halifax Regional Municipality
By-law C-900
Respecting Charges for Stormwater from Municipal Streets

Short Title

1. This by-law may be cited as the *Charges for Stormwater from Municipal Streets By-law*.

Interpretation

2. In this by-law,
 - (a) "Board" means the Nova Scotia Utility and Review Board;
 - (b) "Commission" means the Halifax Regional Water Commission;
 - (c) "Customer" means a customer of the Commission as defined by the Regulations;
 - (d) "Municipality" means the Halifax Regional Municipality;
 - (e) "Regulations" means the *Halifax Regional Water Commission Regulations* made by order of the Board, as amended from time to time;
 - (f) "Site Related Flow Charge" means a site related flow charge set by the Board;
 - (g) "Stormwater" means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water; and
 - (h) "Stormwater System" means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways, that is vested in or under the control of the Commission.

Flat Charge Imposed

3. A flat charge is imposed on a Customer of the Stormwater System.

Amount of Charge

4. (1) The amount of the flat charge for each Customer shall be calculated by dividing the annual amount the Municipality is required to pay the Commission for stormwater service associated with the street right of way owned by the Municipality, as determined by the Board from time to time, by the number of Customers charged the Site Related Flow Charge by the Commission.
 - (2) For the calculation of the flat charge pursuant to subsection 1, the required annual Stormwater Right-of-Way payment shall be:
 - (a) reduced by the amount of any surplus resulting from the flat charge imposed under this By-law for the previous fiscal year; or
 - (b) increased by the amount of any deficit resulting from the flat charge imposed under this By-law for the previous fiscal year.

(3) The amount of the flat charge for each Customer shall be rounded up to the nearest dollar (\$1.00).

5. The charge shall be billed to the Customer by the Commission on the same basis as the Commission bills the Customer for the Site Related Flow Charge.

Set Off

6. The amount of the charge collected by the Commission under this By-law may be set off against the Right of Way Charge owed by the Municipality to the Commission.

Lien

7. A charge imposed pursuant to this by-law is a first lien on the real property to which the charge has been levied and may be collected at the same time and by the same proceedings as other taxes.

Interest

8. Interest shall accrue at the same rate and on the same basis as interest is charged to the Customer by the Commission.

Done and passed this day of , 2017.

Mayor

Municipal Clerk