

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: Jacques Dubé, Chief Administrative Officer

DATE: December 5, 2018

SUBJECT: **By-law S-501, Amending the Solar City By-law**

ORIGIN

By-law S-500, *Solar City by-law*, adopted on April 17, 2012 and effective December 15, 2012.

March 31, 2015 Regional Council passed the following motion:

MOVED by Councillor Watts, seconded by Councillor Fisher that Halifax Regional Council:

1. Approve the continuation of the Solar City Program for three years at no direct net cost to HRM;
2. Increase the budget for project account CD990001 Solar City Program by \$13,112,700 with funding as indicated in the Financial Implications section of the January 14, 2015 staff report;
3. Endorse the project initiation to include solar photovoltaic, solar air, and solar thermal technologies;
4. Direct staff to supply an annual report on the Solar City program; and
5. Direct staff to implement the recommendations from the Grant Thornton report on the pilot project.

February 1, 2018 Information Report – Solar City Program Update to the Environment and Sustainability Standing Committee.

December 4, 2018 Regional Council passed the following motion:

That Halifax Regional Council:

1. Approve the continuation of the Solar City Program as a clean energy, community-based program; and
2. Direct staff to provide annual reports on the Solar City Program to the Environment and Sustainability Standing Committee.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, clause 79(1)(ada) and section 104A, as follows:

79 (1) The Council may expend money required by the Municipality for
(ada) providing for, financing and installing energy-efficiency equipment on private property including, without restricting the generality of the foregoing, solar panels.

104A (1) The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation of any of the following on private property with the consent of the property owner...(a) equipment installed pursuant to an expenditure under clause 79(1)(ada);

(2) A By-law passed pursuant to this Section may provide

(a) that the charges fixed by, or determined pursuant to, the by-law may be chargeable according to a plan or method set out in the by-law;

(b) that the charges may be different for different classes of development and may be different in different areas of the Municipality;

(c) when the charges are payable;

(d) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(e) that the charges be collectable in the same manner as taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes

(f) a means of determining when the lien becomes effective or when the charges become due and payable;

(g) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the by-law and, upon default of payment of any instalment, the balance becomes due and payable; and

(h) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the by-law.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. adopt By-law S-501, amending By-law S-500, the *Solar City by-law*, as set out in Attachment 2 of this report; and
2. adopt the amendments to Administrative Order 15, *License, Permits and Processing Fees Administrative Order*, as set out in Attachment 4 of this report.

BACKGROUND

Council adopted the Solar City By-law (By-law) on April 17, 2012 and the By-law came into force on December 15, 2012. The By-law enabled the launch of the Solar City pilot project. The By-law was created to allow the Municipality to offer financing to eligible property owners to install solar energy systems.

The pilot launched in March 2013 and the last installation was completed in 2015. The pilot awarded the installation of solar domestic hot water (DHW) systems to a single contractor. The current program received Regional Council approval on March 31, 2015 and launched on June 16, 2016. The current program has approval to run for three years, ending in the spring of 2019. Unlike the pilot project, the current program has been designed with an open market approach and supports solar photovoltaic, solar air and solar thermal technologies.

When the pilot project was designed and launched, solar hot water systems were the most economical in comparison to other solar technologies. Further to this, the Nova Scotia Department of Energy supported the pilot project with a rebate of \$1,250 for all systems, regardless of their fuel offset. The rebates were administered through Efficiency Nova Scotia and paid directly to HRM, reducing the cost to pilot project participants. The total costs of solar hot water systems were stable during the pilot and have remained stable to date.

DISCUSSION

It is recommended that changes to the By-law be made to better reflect the current program and its process for the installation of energy equipment. The amendments will create a distinction between the pilot project (solar collector system installed on or before June 16, 2016) and the current program (energy equipment installed after June 16, 2016). The amendments will also provide Council the option to continue or expand the program.

The amendments will include:

- defining the application of the By-law;
- adding date references for the pilot project and add in language for the current program, respecting the charge, lien and interest;
- general housekeeping; and,
- revising Administrative Order 15.

Refer to Attachment 1 for the recommended amendments to By-law S-500 and to Attachment 2 for By-law S-501.

Process Changes

Section 2A has been added to define how the By-law will be applied.

Charge, Lien and Interest

As mentioned in the Background section of this report, the charge for solar hot water systems installed during the pilot was applied at a uniform rate. This uniform rate was determined through the award of a Request for Proposal that set the charge based on system size and accessory options selected by the property owner. The amendments recommended will not change the charge for the pilot project, but will add in a reference to June 16, 2016 (the date the current program launched).

To better distinguish between the pilot project and the current program, new language will be added to cover the actual, non-uniform charge of energy equipment installed after June 16, 2016. The same changes will be made to the lien provision.

New language will be added to the interest provision, distinguishing between the pilot project and the current program.

Housekeeping

Recommended housekeeping amendments include:

- adding definitions for CAO, Engineer, owner and Treasurer; and,
- changing the header “Definitions” to “Interpretation” so it is consistent with other by-laws of the Municipality.

Administrative Order 15

It is also recommended that the reference column in Administrative Order 15 be updated to reflect the revised By-law. Refer to Attachment 3 for the recommended amendments to Administrative Order 15 and to Attachment 4 for the amended Administrative Order. The amount of the permit fee (\$150) will remain unchanged.

Conclusion

Climate change is having an impact on HRM and there is an ever-increasing attention to mitigation strategies to help reduce greenhouse gas emissions. Efforts from the federal and provincial government have increased to meet emission reduction targets. The Solar City program assists the Municipality in reaching these targets, by incentivizing the adoption of solar renewable energy.

The recommended amendments will not change the current program but will provide Regional Council flexibility for clean energy programming in the future.

FINANCIAL IMPLICATIONS

There are no financial implications arising from the recommendations in this report. By-law S-501 provides clarity to the interest rate and charges specifically for the pilot project, the current program, and future programming options.

RISK CONSIDERATION

Refer to the Private and Confidential In-Camera report, dated November 26, 2018, respecting amending the Solar City By-law.

COMMUNITY ENGAGEMENT

Previous community engagement indicated a public preference for participants to select their own solar contractor, technology, and installation options. The revised Solar City Program is accomplishing this and the recommended By-law S-501 reflects the new requirements of the current program while providing Regional Council with options for future programming.

ENVIRONMENTAL IMPLICATIONS

The Solar City Program, and previous pilot project, provide environmental benefits by increasing the adoption of renewable energy in the municipality and decreasing greenhouse gas emissions.

ALTERNATIVES

1. Council may defer the matter and direct staff to provide further information before making a decision respecting the By-law. This is not recommended for the reasons discussed in the report.
2. Council may refuse to adopt the recommended amendments to By-law S-500 (Solar City By-law) and Administrative Order 15. This is not recommended for the reasons discussed in the report.

ATTACHMENTS

- Attachment 1 Showing Proposed Changes to the Solar City By-law
Attachment 2 By-law S-501 Amending the Solar City By-law
Attachment 3 Showing Proposed Changes to Administrative Order 15
Attachment 4 Amending Administrative Order
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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.

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Financial Approval by: Jerry Blackwood, Acting Director of Finance and Asset Management/CFO, 902.490.6308

Report Approved by: Kelly Denty, Director of Planning and Development, 902.490.4800

**Attachment 1
(Showing Proposed Changes)**

**Halifax Regional Municipality
By-Law Number S-500
Respecting Charges for ~~Solar City Program~~ Energy Equipment**

Be It Enacted by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This by-law shall be known as By-Law S-500 and may be cited as the **“~~Solar City by-law~~” Energy Equipment By-law**.

1A. A reference in an enactment to the **By-law Respecting Charges for Solar City** or the **Solar City by-law** shall be a reference to this by-law.

~~Definitions~~ Interpretation

2. **In this by-law,**

(a) “Director” means the director of the department of the Municipality responsible for energy, sustainability or the environment, and includes a designate or a person acting under the supervision and direction of the Director;

(b) “energy equipment” means any equipment that:

(i) reduces the amount of non-renewable energy used by a structure, or

(ii) utilizes a renewable energy source, including solar collectors;

(c) “Engineer” means the Engineer of the Municipality, and includes a person acting under the supervision and direction of the Engineer;

(d) “owner” includes

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of or a building,

(ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,

(iii) a person who occupies shores, beaches or shoals, and

(iv) in the absence of proof to the contrary, the person assessed for the property;

(e) “Solar Collector” means any device to convert solar energy to useful thermal air energy, thermal water energy or electric energy; and

(f) “Treasurer” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer.

Application of By-law

2A (1) No owner of property shall be eligible for financing under this By-law unless a permit has been issued by the Municipality to such owner for the installation of a Solar Collector on their property.

(2) The fee for the permit shall be set out in Administrative Order 15, the *License, Permits and Processing Fees Administrative Order*.

2B This by-law applies to the installation of energy equipment on the property of an owner if

- (a) section 2A has been satisfied;
- (b) Council has approved an energy program for the installation of energy equipment of the type identified by such owner in the application;
- (c) the owner qualifies to participate in an energy program that has been approved by Council for the type of energy equipment the owner has identified in the application, and such owner agrees to be subject to the terms and conditions governing such participation;
- (d) the Director is provided a written estimate from an installer of the projected cost of the installation of the energy equipment;
- (e) the owner consents to the imposition of the charge;
- (f) an agreement is executed between the owner and the Municipality respecting the provisioning, financing and installation of energy equipment on the property of such owner and the repayment of all associated costs in accordance with a payment schedule; and
- (g) the Director approves the written estimate provided to the Municipality pursuant to clause d prior to the installation commencing.

Charge Imposed

3. Where a solar collector system has been constructed, installed, improved, operated or maintained on a property the owner of which has signed a Solar City Customer Agreement and was constructed, installed, improved, operated or maintained on or before June 16, 2016 a solar collector improvement tax is hereby levied upon the property.

3A Where energy equipment was installed, improved, operated or maintained on a property after June 16, 2016 and before the coming in force of section 3B and the owner of the property has signed an agreement pursuant to clause 2B(f) a charge, together with the interest provided in the agreement, is hereby imposed on the property.

3B Where energy equipment has been installed, improved, operated or maintained on a property on or after the coming in force of this section and the owner of the property has signed an agreement pursuant to clause 2B(f) a charge, together with the interest provided in the agreement required pursuant to clause 2B(f), is hereby imposed on the property.

Amount of Charge

4. The amount of tax levied pursuant to section 3 shall be determined in accordance with the provisions of this by-law and shall be calculated based on:

- (a) the size of the system installed with a uniform rate being applied for each size; and
- (b) the system options chosen by the Solar City customer.

4A. The amount of the charge imposed pursuant to section 3A or 3B shall be calculated based on the lesser of:

- (a) the actual cost of providing for, financing, and installing energy equipment; or
- (b) seventy-five percent (75%) of the assessed value of the property where the energy equipment was installed, improved, operated or maintained.

Solar City Program Charges

5. (1) For a Solar Collector constructed, installed, improved, operated or maintained on or before June 16, 2016, the Engineer shall submit to the Treasurer a copy of the signed Solar City Customer Agreement and certification of the completion of the solar collector system installation.

(2) The solar collector improvement tax shall be calculated on the basis of the total cost of the project less any federal, provincial or other funding.

(3) Payment of the solar collector improvement tax shall commence at project completion.

(4) Where a property has been omitted by error or has been assessed in error or has been assessed for a solar improvement tax for a greater amount or a lesser amount than the property should have been assessed, the Engineer may at any time amend the assessment list to correct the error and adjust the assessment.

5A. (1) For energy equipment installed after the coming in force of this section, the Treasurer shall receive a copy of the signed agreement that is required pursuant to clause 2B(f) and written confirmation from an owner of the property confirming the installation of the energy equipment is complete.

(2) Payment of the charge under this by-law shall commence once the installation of the energy equipment is complete.

6. The Treasurer shall keep a separate account of all monies due for solar collector improvement tax and a charge levied pursuant to this by-law and the account shall contain:

(a) the names of the owners of properties liable for a solar collector improvement tax levied pursuant to section 3 or a charge imposed pursuant to section 3A or 3B;

(b) the amount due with respect to each property; and

(c) the amount paid with respect to each property.

Lien

7. (1) A charge imposed pursuant to this by-law constitutes a lien upon the property with respect to the solar collector improvement tax levied pursuant to section 3 or a charge imposed pursuant to section 3A or 3B has been levied in the same manner and with the same effect as rates and taxes under the Assessment Act.

(2) A charge imposed pursuant to this by-law is collectable in the same manner as rates and taxes under the Assessment Act and at the option of the Treasurer is collectable at the same time and by the same proceedings as are rates and taxes.

(3) The lien provided for in this by-law shall become effective on the date on which the ~~Engineer files with the~~ Treasurer receives a certificate that the improvement has been completed.

(4) The lien provided for in this by-law shall remain in effect until the charge plus interest has been paid in full.

Interest

8. (1) For a tax levied pursuant to section 3, interest shall accrue on charges outstanding from the date of billing at a rate equal to the project's financing cost, as indicated on the Solar City Customer Agreement, on the date that notification of the solar collector improvement is issued by the Treasurer.

(2) For a charge imposed pursuant to section 3A or 3B, interest shall accrue on charges outstanding from six weeks after the date of billing at a rate as indicated in the agreement required by clause 2B (f).

Installments

9. The amount payable may, at the option of the owner of the property, be paid in equal annual installments over a period not exceeding ten years and the balance becomes due and payable in case of default of payment of an installment.

Done and passed by Council this 17th day of April, A.D., 2012.

Mayor

Municipal Clerk

**ATTACHMENT 2
(Amending By-law)**

**Halifax Regional Municipality
By-Law Number S-501
Respecting Charges for Solar City Program**

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-law S-500, the *Solar City by-law*, is amended as follows:

1. The title of by-law is amended by:
 - (a) striking out the words “Solar City Program” after the word “for” and before the word “Be”; and
 - (b) adding the words “Energy Equipment” after the word “for” and before the word “Be”.
2. Section 1 is amended by:
 - (a) striking out the words and quotations ““Solar City by-law”” after the word “the” and before the period; and
 - (b) adding the words “*Energy Equipment By-law*” after the word “the” and before the period.
3. Section 1A is added after section 1 as follows:
 - 1A. A reference in an enactment to the *By-law Respecting Charges for Solar City* or the *Solar City by-law* shall be a reference to this by-law.
4. Section 2 is amended by:
 - (a) striking out the header “Definitions” after the newly added section 1A and before the start of the section;
 - (b) adding the header “Interpretation” after the newly added section 1A and before the start of the section;
 - (c) adding the words and comma “In this by-law,” at the beginning of the section;
 - (d) striking out the period at the end of the definition of Solar Collector;
 - (e) adding a semi-colon and the word “; and” at the end of the definition of Solar Collector;
 - (f) lettering the definition “Solar Collector” as clause e of section 2;
 - (g) adding clauses (a), (b), (c), and (d) after the newly added comma and word “by-law,” and before clause e as follows:
 - (a) “Director” means the director of the department of the Municipality responsible for energy, sustainability or the environment, and includes a person acting under the supervision and direction of the Director;

- (b) “energy equipment” means any equipment that:
 - (i) reduces the amount of non-renewable energy used by a structure, or
 - (ii) utilizes a renewable energy source, including solar collectors;
- (c) “Engineer” means the Engineer of the Municipality, and includes a person acting under the supervision and direction of the Engineer;
- (d) “owner” includes
 - (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of or a building,
 - (ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,
 - (iii) a person who occupies shores, beaches or shoals, and
 - (iv) in the absence of proof to the contrary, the person assessed for the property;
- (h) adding clause f after clause e and before section 3 as follows:
 - (f) “Treasurer” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer.

5. Sections 2A and 2B are added section 2 and before section 3 as follows:

Application of By-law

2A (1) No owner of property shall be eligible for financing under this By-law unless a permit has been issued by the Municipality to such owner for the installation of a Solar Collector on their property.

(2) The fee for the permit shall be set out in Administrative Order 15, the *License, Permits and Processing Fees Administrative Order*.

2B This by-law applies to the installation of energy equipment on the property of an owner if

- (a) section 2A has been satisfied;
- (b) Council has approved an energy program for the installation of energy equipment of the type identified by such owner in the application;
- (c) the owner qualifies to participate in an energy program that has been approved by Council for the type of energy equipment the owner has identified in the application, and such owner agrees to be subject to the terms and conditions governing such participation;
- (d) the Director is provided a written estimate from an installer of the projected cost of the installation of the energy equipment;
- (e) the owner consents to the imposition of the charge;

(f) an agreement is executed between the owner and the Municipality respecting the provisioning, financing and installation of energy equipment on the property of such owner and the repayment of all associated costs in accordance with a payment schedule; and

(g) the Director approves the written estimate provided to the Municipality pursuant to clause d prior to the installation commencing.

6. Section 3 is amended by adding the words “and was constructed, installed, improved, operated or maintained on or before June 16, 2016” after the word “Agreement” and before the words “a solar”.

7. Sections 3A and 3B are added after section 3 and before section 4 as follows:

3A Where energy equipment was installed, improved, operated or maintained on a property after June 16, 2016 and before the coming in force of section 3B and the owner of the property has signed an agreement pursuant to clause 2B(f) a charge, together with the interest provided in the agreement, is hereby imposed on the property.

3B Where energy equipment is installed, improved, operated or maintained on a property on or after the coming in force of this section and the owner of the property has signed an agreement pursuant to clause 2B(f) a charge, together with the interest provided in the agreement required pursuant to clause 2B(f), is hereby imposed on the property.

8. Section 4A is added after section 4 and before section 5 as follows:

4A. The amount of the charge imposed pursuant to section 3A or 3B shall be calculated based on the lesser of:

(a) the actual cost of providing for, financing, and installing energy equipment; or

(b) seventy-five percent (75%) of the assessed value of the property where the energy equipment was installed, improved, operated or maintained.

9. Section 5 is amended by:

(a) de-capitalizing the word “The” at the beginning of subsection 1; and

(b) adding the words and comma “For a Solar Collector constructed, installed, improved, operated or maintained on or before June 16, 2016,” at the beginning of subsection 1.

10. Section 5A is added after section 5 as follows:

5A. (1) For energy equipment installed after the coming in force of this section, the Treasurer shall receive a copy of the signed agreement that is required pursuant to clause 2B(f) and written confirmation from an owner of the property confirming the installation of the energy equipment is complete.

(2) Payment of the charge under this by-law shall commence once the installation of the energy equipment is complete.

11. Section 6 is amended by:

(a) adding the words “and a charge” after the word “tax” and before the word “levied”; and

(b) adding the word "levied pursuant to section 3 or a charge imposed pursuant to section 3A or 3B" after the word "tax" and before the semi-colon in clause a".

12. Section 7 is amended by

(a) adding the words "levied pursuant to section 3 or a charge imposed pursuant to section 3A or 3B" after the word "tax" and before the word "has" in subsection 1;

(b) striking out the words "Engineer files with the" after the word "which the" and before the word "Treasurer" in subsection 3; and

(c) adding the word "receives" after the word "Treasurer" and before the words "a certificate" in subsection 3.

13. Section 8 is amended by:

(a) de-capitalizing the word "interest",

(b) adding the words and comma "For a tax levied pursuant to section 3," at the beginning of the section,

(c) numbering section 8 as subsection 1 of section 8; and

(d) adding subsection 2 as follows:

(2) For a charge imposed pursuant to section 3A or 3B, interest shall accrue on charges outstanding from six weeks after the date of billing at a rate as indicated in the agreement required by clause 2B (f).

Done and passed by Council this day of , A.D., 201 .

Mayor

Municipal Clerk

**Attachment 3
(showing proposed changes to Administrative Order 15)**

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 15**

Respecting License, Permit And Processing Fees

20.

By-law #	Fee
Solar Collection System Permit By-law S-500	Fee
Solar Collector Permit Consolidated processing fee for the development and construction inspections for the installation of Solar Collection Systems	\$150.00

**Attachment 4
(Amending Administrative Order)**

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 15**

Respecting License, Permit And Processing Fees

BE IT RESOLVED by the Council of the Halifax Regional Municipality that Administrative Order 15, the *License, Permits and Processing Fees Administrative Order*, is further amended as follows:

1. The chart in section 20 is amended by:
 - (a) striking out the words "Solar Collection System Permit" in the first cell of the first column;
 - (b) adding the words "By-law S-500" in the first cell of the first column;
 - (c) striking out the word "Fee" in the second column of the first row;
 - (d) adding the words "Solar Collector Permit" at the beginning of second cell of row two; and
 - (e) adding the following row to the beginning of the chart:

By-law #	Fee
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Done and passed by Council this day of , A.D., 201 .

Mayor

Municipal Clerk