

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: January 12, 2021

SUBJECT: Funding for Stormwater Right-of-way Cost as General Tax

ORIGIN

September 14, 2021, Halifax Regional Council motion (Item 12.1):

MOVED by Councillor Lovelace, seconded by Councillor Russell

THAT Halifax Regional Council request a staff report to fund the Nova Scotia Utility and Review Board ordered stormwater right-of-way cost as general tax, since all municipal roads are general rated and paid for by all taxpayers; and, all dwelling and commercial properties in Halifax Regional Municipality benefit from effectively managed stormwater on municipal roadways, not including properties that are essentially ancillary to a dwelling.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, subsections 93(1)(6), 94(1), and section 96, as follows:

Estimates of required sums

93 (1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

- (6)** The Council shall authorize the levying and collecting of a
- (a) commercial tax rate of so much on the dollar on the assessed value of taxable commercial property and business occupancy assessment; and
 - (b) residential tax rate of so much on the dollar on the assessed value of taxable residential property and resource property.

Tax Rates

94 (1) The Council shall set separate commercial and residential tax rates for the area of the Municipality determined by the Council to be

- (a) a rural area receiving a rural level of services;
- (b) a suburban area receiving a suburban level of services; and
- (c) an urban area receiving an urban level of services.

Area rates and uniform charges

96 (1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property or occupancy assessments in the area.

(3) The Council may provide

- (a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council
- (b) in the resolution setting the area rate, that the area rate applies only to the assessed value of one or more of the taxable commercial, residential or resource property and occupancy assessments in the area.

(4) The Council may, in lieu of levying an area rate, levy a uniform charge on each

- (a) taxable property assessment;
 - (b) dwelling unit,
- in the area.

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;

(3) 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 in proportion to frontage, in proportion to area, in proportion to the assessment of the respective properties fronting on the street or according to another plan or method set out in the by-law;

By-law C-900, *Charges for Stormwater from Municipal Streets By-law*

RECOMMENDATION

It is recommended that Halifax Regional Council maintain By-Law C-900 and direct the Chief Administrative Officer to maintain By-Law C-900 and the current HRM stormwater right-of-way charge of \$40 per Halifax Water stormwater client, collected on behalf of HRM on the Halifax Water bill.

BACKGROUND

Stormwater charges were originally billed by HRM as part of the Pollution Control Charge. This responsibility was later transferred to Halifax Water and they implemented a new system of stormwater charges.

Since a Nova Scotia Utility and Review Board (NSUARB) decision in June 2013, the Municipality has been responsible to pay Halifax Water (HW) for stormwater services – roughly 40% of Halifax Water’s annual stormwater costs – based on the total area of impervious surface of HRM-owned roads.

Since that NSUARB decision, HRM has collected the required amounts in a variety of ways, including general funds, as a flat charge on the Halifax Water bill and as a flat uniform charge on the HRM tax bill. For the past five years, the required amount has been collected on the Halifax Water bill and charged in accordance with By-law C-900, the *Charges for Stormwater from Municipal Streets By-law*. Summaries of the amount collected and the methods used to collect the Stormwater Right-of-Way (ROW) charge are shown in the following table.

Fiscal Year	Municipal Stormwater Payment to Halifax Water	Collection Method	Charge Amount
2013-14	\$2,671,300	HRM General Fund	\$0 (funded through surplus)
2014-15	\$3,881,400	Halifax Water bill	\$39/HW client
2015-16	\$3,881,400	Halifax Water bill	\$41/HW client
2016-17	\$3,881,400	HRM flat area rate	\$42/HRM tax account
2017-18	\$3,846,600	Halifax Water bill	\$39/HW client
2018-19 to present	\$3,835,000	Halifax Water bill	\$40/HW client

For more details on the history of decisions related to the Stormwater ROW charge, see Attachment 1.

DISCUSSION

General Rate Approach (Option 1)

If the current Municipal Stormwater payment to Halifax Water were to be collected through the general rate on all taxable properties, a rate of seven tenths of a cent (\$0.007) would be required. This amount would be added to all general rates – urban, suburban and rural for all residential, resource and commercial properties. The incremental rate would not typically be shown as a separate line on the tax bill.

Alternatives to the General Rate Approach

The motion approved by Regional Council on September 14, 2021 mentions “...all dwelling and commercial properties...” and concludes with “...not including properties that are essentially ancillary to a dwelling.” This suggests that some properties should be excluded from the general rate. General rates are all inclusive in their application, so a more-targeted charge would require the use of an area rate or a uniform charge.

Two area rate options are described below.

Option 2 – Area Rate (Residential and Commercial but excludes Resource Properties)

Resource assessment are properties used for such uses as farming, fishing, forestry or conservation. Resource properties are taxed at the same rate as residential properties. Although some resource

properties may have buildings on them, many do not and would be unlikely to create stormwater runoff from (non-natural) impervious surfaces. The “impervious surface” area of properties is used by the UARB and Halifax Water to allocate stormwater costs. An area rate of seven tenths of a cent (\$0.007) could be applied to commercial and residential properties only. The level of the rate is essentially the same as with the *General Rate Approach*, due to the relatively small resource assessment base.

It is not recommended that this area rate be implemented. When the Stormwater ROW charge was applied as a uniform charge per taxable assessment account in 2016-17, there were significant complaints from those with small residential properties, such as separately deeded condo parking stalls and low-value vacant plots of land. Hundreds of tax bills adjustments were required. If this approach was followed the Area Rate would appear as a separate charge on all residential and commercial tax bills and could provoke similar inquiries of Stormwater Right-of-Way billing.

Option 3 – Area Rate (Excludes Residential and Resource Properties without Dwellings)

The motion suggests excluding properties “...essentially ancillary to a dwelling.” Residential and Resource properties without dwellings could be excluded through a specific charge, imposed by by-law. This charge could be applied as a charge slightly above seven tenths of a cent (\$0.0072) or as a uniform charge of \$27.75 per property.

This will add some administrative complexity to the billing system since the billing will depend on dwelling unit information for more than 150,000 residential and resource properties which have never been used as a basis for billing on this scale. Dwelling unit data integrity and system design would need to be confirmed.

The challenge with this approach is that it creates a very broad area rate across the Region as if the properties all benefit from the Halifax Water Stormwater system. However, many of those individual properties will be outside the Halifax Water service area and are likely to contest the tax.

Impact of Changes

Currently, just under 100,000 Halifax Water customers pay the \$40 annual stormwater right-of-way fee on their water bill. That number (of customers) could increase by about 6,000 when the Halifax Water boundary expands in June 2022. Under Options 1, 2 and 3 above, an additional 30,000 to 55,000 additional taxpayers will pay the stormwater charge. These additional taxpayers would include rural taxpayers who are outside the stormwater area, as well as property owners who have been exempted from the Halifax Water charge (and therefore the right-of-way fee). Owners of vacant properties would pay the tax as would rural businesses. Within the Halifax Water service area, condo owners and mobile homeowners (in parks), who currently pay only one charge for the entire property, would be charged individually.

For Options 1 and 2, those homeowners who pay the HW charge, will pay \$40 less on their water bill and, on average, \$19 dollars more on their property tax bills. However, nearly five percent of homeowners would pay more than \$40 for stormwater on their property tax bill.

Apartment owners would pay, on average, \$9.50 per unit. So, apartments with 5 or more units will likely end up paying more than the current \$40 per property.

Forty-four percent of commercial properties would pay \$19 or less. Sixty-one percent would pay less than the \$40 dollars charged on their Halifax Water bill. However, one out of ten commercial properties would pay \$210 or more on their tax bill.

Although, for most, the proposed change would basically move the charge from one bill (water bill) to another (tax bill), it will push up the average HRM homeowner’s tax bill by \$19, or 0.9%, on top of the 4.6% tax increase currently being discussed by the Budget Committee.

Summary of Stormwater Charge Taxation Options

Option	Description	# Accounts	Tax Rate (per \$100 value)	Tax Impact (per average single family home)
1	General rated adjustment on all commercial, residential and resource properties:	159,390	\$0.0070	\$19.00
2	Area rate on all commercial and residential properties:	153,562	\$0.0070	\$19.00
3	Area rate on all commercial properties, plus residential and resource properties with dwellings:	138,312	\$0.0072 (or \$27.75 per property)	\$19.60

Timing of Stormwater ROW funding changes

If a decision to move the HRM Stormwater ROW charge to tax bill collection is made, Regional Council will have to repeal By-Law C-900 or, if Option 3 were selected, amend it, for the change to become effective. Due to the time required to amend or repeal the by-law, it cannot be done by April 1, 2022. Accordingly, a transition from charges on the water bill to property tax could be planned to be effective April 1, 2023.

FINANCIAL IMPLICATIONS

There are no long-term financial implications of the recommendation or alternatives. All options will provide the funds necessary to provide payment to Halifax Water for stormwater services.

Halifax Water may incur minor administrative costs in changing its billing and communicating with its customers, should the HRM Stormwater ROW charged be removed from the Halifax Water bill. HRM could be charged for unplanned incremental costs to Halifax Water. These minor costs could be funded from within approved budgets.

RISK CONSIDERATION

Clear communications, to describe the purpose/benefit of the change, is required to avoid reputational risk and Halifax Water client and HRM taxpayer aggravation.

COMMUNITY ENGAGEMENT

Any changes from the current collection method would require communication with Halifax Water stormwater clients and HRM taxpayers.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

- Option 1 outlined in the discussion section could be implemented.

2. Regional Council could request a supplementary staff report to look at other alternatives.

ATTACHMENTS

Attachment 1 – Summary of Stormwater ROW Charge Discussions and Decisions, 2013 to 2018

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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Summary of Stormwater ROW Charge Discussions and Decisions

June 24, 2013: NS Utility & Review Board decides that HRM should pay \$3.9 million/year, about 40% of Halifax Water's stormwater costs, based on impervious surface area of HRM-owned roads, effective July 1, 2013.

2013-2014: HRM decides to pay the required 2013-14 amount from general revenue.

On August 6, 2013, Halifax Regional Council moved and passed the following motion::

MOVED by Councillor Karsten, seconded by Councillor Walker that Regional Council:

1. Use uncommitted surplus from fiscal 2012-13 to fund the 2013-14 cost of the stormwater right-of-way system, and
2. Direct Staff to return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues.

On January 14, 2014, Halifax Regional Council moved and passed the following motion:

MOVED by Councillor Walker, seconded by Councillor Mosher that Halifax Regional Council:

1. Levy a new Stormwater Charge for Right-of-Way costs of \$39 per Property on those properties that pay the Halifax Water Stormwater Charge, and,
2. Request that Halifax Water collect the new Stormwater Charge for HRM through the Halifax Water billing process, commencing with the 2014-15 fiscal year.

2014/15 and 2015/16: The Stormwater ROW charge is collected (for HRM) by Halifax Water, on its water bill. A flat rate of \$39 per customer per year is collected in 2014-15, and \$41 per customer in 2015-16.

On April 28, 2015, Halifax Regional Council moved and passed the following motion:

MOVED by Councillor Walker, seconded by Councillor Karsten that Regional Council rescind the motion passed at the January 14, 2014 meeting to approve that Regional Council:

1. Levy a new Stormwater Charge for Right-of-Way costs of \$39 per Property on those properties that pay the Halifax Water Stormwater Charge, and,
2. Request that Halifax Water collect the new Stormwater Charge for HRM through the Halifax Water billing process, commencing with the 2014-15 fiscal year.

On April 28, 2015, Halifax Regional Council also moved and passed the following motion:

MOVED by Councillor Walker, seconded by Deputy Mayor Nicoll that a staff report be completed before the end of June to look at options for Stormwater Charges for Right-of-Way costs for future fiscal years.

On June 23, 2015 Halifax Regional Council moved and passed the following motion:

MOVED by Councillor Walker, seconded by Councillor Dalrymple that Halifax Regional Council levy the Stormwater Right of Way Charge on the 'Stormwater Service Area' at \$42 per property, with collection by HRM commencing in 2016-17.

2016/17: HRM collects a flat Stormwater ROW charge of \$42 per property on its tax bill. Many small properties are taxed the \$42, including those considered "stacked", e.g., condo parking and mobile homes in parks.

On September 5, 2017 Council adopted By-law C-900. The stormwater charge continues to be collected under this By-law.

On October 4, 2016, Halifax Regional Council moved and passed that they:

1. Request a staff report regarding operational and financial implications of removing the stormwater tax from properties that are essentially ancillary to a dwelling, such as parking and storage spaces with separate deed and title to a condominium.
2. And that the staff report also consider:
 - the possibility of reimbursement of the \$42
 - circumstances where Condominium Corporations were originally billed (\$42) and now individual condo owners are billed
 - mobile home parks
 - owners having lots which are unable to develop and currently paying \$42
 - residents previously exempt of the right of way fee before it was moved to the tax bill
3. And further that the report provide options to the storm water tax.

On November 22, 2016, Halifax Regional Council moved and passed that they:

direct staff to prepare a report and recommendation with respect to funding the Stormwater Right-of-Way amount by way of an area rate on the assessed value of taxable properties within the Halifax Water service boundary and return to Council for consideration of the resulting report during the 2017-18 budget deliberations.

On February 21, 2017, Halifax Regional Council moved and passed that they:

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.

February 2017: NS Utility & Review Board hears HRM concern that Stormwater ROW charge to the Municipality is inappropriate.

March 2017: 3,700+ property tax accounts with "stacked charges" are credited their \$42.

April 2017: The NSUARB rejects HRM's request to reverse its Stormwater ROW decision.

2017/18: The Stormwater ROW charge is again collected (for HRM) by Halifax Water, on its water bill. It is a flat rate of \$39 per customer per year.

On August 15, 2017, an amended motion was approved that Halifax Regional Council:

1. give first Reading to By-Law C-900, the Charges for Stormwater from Municipal Street By-law, as set out in the Revised Attachment 1 of the staff report dated July 27, 2017.
2. direct that the Budget Committee of the Whole meet to reconsider tax options for the Stormwater Right-of-Way (ROW) charge for the fiscal 2018/19 budget year and onward.

On September 5, 2017, a motion was approved that Halifax Regional Council:

adopt By-Law C-900, the Charges for Stormwater from Municipal Streets By-law, as set out in the Revised Attachment 1 of the staff report dated July 27, 2017.

2018/19: The annual Stormwater ROW charge is raised by HRM from \$39 to \$40, effective April 1, 2018. Most Halifax Water customers see the new rate on their bill by July 2018.