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Item No. 15.1.13
Halifax Regional Council
September 10, 2024

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Cathie O'Toole, Chief Administrative Officer

DATE: August 30, 2024

SUBJECT **Regional Subdivision By-law Amendments - Security Options and Inspection Fees**

ORIGIN

Staff.

EXECUTIVE SUMMARY

Amendments are proposed to the Regional Subdivision By-law that will reduce red tape and provide financial relief for subdivision proposals involving new public streets and parks. The amendments provide an additional option for provision security, in the form of development bonds, and align the amount charged and method of collection of audit inspection fees with *Administrative Order Number 15 (Respecting License, Permit and Processing Fees)*. The public participation program approved by Council has been completed, there are no budget implications or significant risks associated with the recommendations contained within this report.

RECOMMENDATION

It is recommended that Regional Council direct the Chief Administrative Officer to:

1. Give First Reading to the proposed amendments to the Regional Subdivision By-law as set out in Attachment A, and schedule a public hearing; and
2. Adopt the proposed amendments to the Regional Subdivision By-law as contained in Attachment A.

BACKGROUND

Regional Council approved initiation of consideration of amendments to the Regional Subdivision By-law on December 12, 2023. The amendments include the addition of development bonds as a security option and revise how inspection fees are collected for the installation of primary and secondary services associated with subdivision.

Development Bonds

Marsh Canada Limited, an insurance broker, in discussion with Clayton Developments Limited, has approached staff, requesting consideration of development bonds as a form of security, in addition to the current acceptance of letters of credit, in order to guarantee the installation of municipal infrastructure through the subdivision process.

Inspection Fees

Council approved an amendment to *Administrative Order Number 15- Respecting License, Permit and Processing Fees (Admin Order 15)* to include a standard engineering fee of \$150 per inspection of new infrastructure associated with subdivision proposals. The amendment to Admin Order 15 became effective on September 2, 2023. A corresponding amendment to the Regional Subdivision By-law is required in order to enable the collection of inspection fees as they are conducted and to have them charged in accordance with Admin Order 15.

DISCUSSION

Development Bonds

The Regional Subdivision By-law (the By-law) currently allows the Development Officer to accept security, for the purpose of guaranteeing the construction of municipal infrastructure, to be submitted in the form of letters of credit, cash, certified cheque, or bank draft. The development bond has been described by industry as a practical alternative to a letter of credit. The development bond can be structured to suit the needs of the Municipality as a pay-on-demand security which differs from construction bonds which are default instruments. Some key benefits include the financial assurance to a Municipality that a developer will successfully complete all obligations and the bond may be reduced, and ultimately released, when the infrastructure is accepted.

A development bond provides the Municipality with the same financial assurance as a letter of credit and provides the developer with the benefit of improved liquidity to potentially fund other developments. Many other Canadian cities have begun the practice of accepting development bonds to secure development, notably the City of Calgary and the City of Hamilton.

It should also be noted that the *Halifax Regional Municipality Charter* includes bonds as an option to secure infrastructure through the subdivision process. The intent is to include bonds, as acceptable to the Municipality in consultation with Finance, as an additional form of security for this purpose.

Inspection Fees

The Regional Subdivision By-law currently requires applicants of subdivisions with new infrastructure to pay inspection fees equal to 0.5% of the total cost of primary and secondary services to be installed. This amount is required to be paid prior to a pre-construction meeting to commence construction of the new streets and services. Upon acceptance of the municipal infrastructure and completion of the warranty period, the unused inspections fees are returned.

It is proposed that the By-law be amended to require the \$150 inspection fee as currently set out in Admin Order 15 be paid upon each inspection. Required inspections will be requested, charged and paid through the online Permitting, Planning, Licensing and Compliance system. Collecting fees in this manner would reduce the administrative burden of holding, drawing, and returning funds associated with inspection fees. This will reduce red tape and improve customer service.

COMMUNITY ENGAGEMENT

Regional Council approved the public participation program as outlined in the December 12, 2023 Initiation Report for the proposed amendments, per the following:

Providing additional flexibility relative to acceptance of security and altering the process for acceptance of inspection fees impacts land developers in HRM. HRM has held preliminary discussions with industry regarding the inclusion of development bonds as security. Many of the major developers and consultants in HRM have been involved in discussions about proposed changes to the inspection fee process. Discussions on both items have been positive and there is support for the inclusion of development bonds and changes to the inspection fee process from industry.

Given the broad geography involved and the previous engagement on the matter with industry, the proposed level of community engagement would be consultation through the Development Liaison Group (DLG), and information sharing and invitation for feedback through the HRM website.

In addition to this public participation, the HRM Charter requires a public hearing to be held before Regional Council can consider approval of any amendments.

The community engagement carried out was consistent with the public participation program approved by Regional Council. Staff met with representatives from the development industry through the Development Liaison Group and posted a notice with the proposed amendments on the Halifax.ca website accepting feedback between June 25th, 2024 to July 9th, 2024. Feedback from meeting with industry stakeholders has been positive with many key developers indicating they will use bonding as a security option for infrastructure subdivisions. Industry stakeholders support the proposal of charging per inspection to avoid burdensome carrying costs, overpayment and refunds in the infrastructure subdivision process. No feedback was received from the website posting.

FINANCIAL IMPLICATIONS

There are no financial impacts to HRM associated with the proposed amendments. The HRM costs associated with processing this amendment can be accommodated within the approved 2024-2025 operating budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified at this time.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter) - Part IX "Subdivision"

Administrative Order 2023-002-ADM (AO-2023-002) - Respecting Public Participation for Planning Documents, Certain Planning Applications, and Engagement with Abutting Municipalities

Administrative Order Number 15 (Respecting License, Permit and Processing Fees)

ALTERNATIVES

1. Regional Council may choose to approve the proposed amendments to the Regional Subdivision By-law subject to modifications. This may necessitate further review, a supplementary staff report and an additional public hearing. If this alternative is chosen, specific direction regarding the requested modifications and amendments is required. A decision of Council to approve amendments to the Regional Subdivision By-law is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

2. Regional Council may choose to refuse to approve the proposed amendments to the Regional Subdivision By-law as provided in Attachment A of this report. A decision of Council to refuse amendments to the Regional Subdivision By-law is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A: Proposed Amendments to the Regional Subdivision 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: Melinda Francis, Principal Planner, 902.719.9601

Attachment A
Proposed Amendments to the Halifax Regional Subdivision By-Law

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Halifax *Regional Subdivision By-Law* is hereby amended as follows:

1. Amending Clause 3(af), as shown below in **bold** and ~~strikeout~~, by:
 - a. Deleting the text “or” and replacing it with the text “,” after the text “bank draft” and before the text “an irrevocable letter of credit”; and
 - b. Adding the text “or a development bond in a format acceptable to the Municipality” after the text “acceptable to the Municipality”

- (af) "Security" means cash, certified cheque, bank draft, ~~or~~ an irrevocable letter of credit issued by a recognized financial institution in a format acceptable to the Municipality **or a development bond in a format acceptable to the Municipality.**

2. Amending Section 108, as shown below in **bold** and ~~strikeout~~, by:
 - a. Deleting the text “Where primary or secondary services are to be installed, an audit inspection fee of 0.5% of the approved cost estimates, in accordance with section 120, shall be received by the Development Officer prior to construction.” and replacing it with the text “Audit inspection fees are required for each inspection of primary and secondary services. Inspections are to be conducted and charged in accordance with Administrative Order 15 Respecting License, Permit and Processing Fees.” in Subsection (1); and
 - b. Deleting the text “the audit inspection fee shall be adjusted so that:” and replacing it with the text “outstanding audit inspections fees due to the Municipality shall be paid.” in Subsection (2); and
 - c. Repealing subsections (a) and (b) in Subsection (2).

108(1) **Audit inspection fees are required for each inspection of primary and secondary services. Inspections are to be conducted and charged in accordance with Administrative Order 15 Respecting License, Permit and Processing Fees.** ~~Where primary or secondary services are to be installed, an audit inspection fee of 0.5% of the approved cost estimates, in accordance with section 120, shall be received by the Development Officer prior to construction.~~

108(2) Prior to the acceptance of the primary or secondary services, **outstanding audit inspection fees due to the Municipality shall be paid.** ~~the audit inspection fee shall be adjusted so that:~~

(a) ~~any fee received below the actual cost of audit inspection incurred by the Municipality or Halifax Water shall be assessed to the~~

~~subdivider; and~~
(b) ~~any fee received in excess of the actual cost of audit inspection incurred by the Municipality and Halifax Water shall be refunded to the subdivider.~~

3. Amending Clause 127(1)(i), as shown below in **bold** and ~~strikeout~~, by:
 - a. Deleting the text “an inspection of services deposit” and replacing it with the text “audit inspection fees for primary and secondary services as they are conducted” before the text “in accordance”; and
 - b. Deleting the text “, based on the approved cost estimate for costs of services as per section 120”.

(i) **audit inspection fees for primary and secondary services as they are conducted** ~~an inspection of services deposit~~ in accordance with Administrative Order Number 15 Respecting License, Permit and Processing Fees, ~~based on the approved cost estimates for costs of services as per section 120;~~
4. Amending Subsection 128(1), as shown in **bold** and ~~strikeout~~, by:
 - a. Deleting the text “generally in the type and format specified” and replacing it with the text “in a format acceptable to the Municipality, and generally in a form as specified” after the text “Securities shall be” and before the text “in Appendices”; and
 - b. Adding the text “, if applicable” after the text “Appendices 8 and 9”.

128 (1) Securities shall be ~~generally in the type and format specified~~ **in a format acceptable to the Municipality, and generally in a form as specified** in Appendices 8 and 9, **if applicable;**
5. Amending Clause 129(a), as shown below in **bold**, by:
 - a. Adding the text “in a format acceptable to the Municipality, and” after the text “security shall be” and before the text “generally in a form”; and
 - b. Adding the text “, if applicable” after the text “Appendix 9” and before the text “;”.

(a) warranty security shall be **in a format acceptable to the Municipality, and generally in a form as specified in Appendix 9, if applicable;**
6. Amending Section 3 in Appendix 1: Subdivision Agreement, as shown below in **bold** and ~~strikeout~~, by:
 - a. Adding the text “and” after the text “have been issued;” and before Clause (d); and
 - b. Repealing clause 3(d).

(c) a letter of undertaking from the Subdivider's Engineer has been submitted and all applicable permits have been issued; **and**

(d) ~~audit inspection fees (0.5% of the approved cost estimates) have been submitted;~~
~~and~~

7. Amending Section 5 in Appendix 1: Subdivision Agreement, as shown below in **bold** and ~~strikeout~~, by deleting the text “Deposit with the Municipality an audit inspection of services fee of 0.5% of the approved estimated costs for services in the amount of \$ _____, such amount to be deposited with the Development Officer prior to construction;” and replacing it with the text “Provide the Municipality with audit inspection fees for the inspection of primary and secondary services as they are conducted and in accordance with Administrative Order Number 15 Respecting License, Permit and Processing Fees;” in Clause 5(1)(a).

(a) ~~Deposit with the Municipality an audit inspection of services fee of 0.5% of the approved estimated costs for services in the amount of \$ _____, such amount to be deposited with the Development Officer prior to construction;~~

Provide the Municipality with audit inspection fees for the inspection of primary and secondary services as they are conducted and in accordance with Administrative Order Number 15 Respecting License, Permit and Processing Fees;

8. Amending Section 9 in Appendix 1: Subdivision Agreement, as shown below in **bold** and ~~strikeout~~, by:

- a. Deleting the text “the inspection of services,” and replacing it with the text “outstanding audit inspection fees shall be paid.”; and
- b. Deleting the text “fees will be adjusted in accordance with the Regional Subdivision By-law.”.

9. The Subdivider agrees that prior to acceptance of the services, ~~the inspection of services,~~ **outstanding audit inspection fees shall be paid.**
~~fees will be adjusted in accordance with the Regional Subdivision By-law.~~

9. Amending Subsection 16(1) in Appendix 1: Subdivision Agreement, as shown below in **bold** and ~~strikeout~~, by:

- a. Deleting the text “and” after the text “for acceptance;”; and
- b. Deleting the text “.” After “for primary services”; and
- c. Adding the text “; and” after the text “for primary services”; and
- d. Adding the text “**(c) pay outstanding inspection fees due to the Municipality or Halifax Water.**” after clause (b).

(a) apply in writing to the Development Officer for acceptance; ~~and~~

(b) apply in writing to the Development Officer to request the release of the

security for primary services; **and**

(c) **pay outstanding inspection fees due to the Municipality or Halifax Water.**

10. Amending Section 17 in Appendix 1: Subdivision Agreement, as shown below in **bold** and ~~strikeout~~, by:

- a. Deleting the text “and” after the text “secondary services;” in clause (b);
- b. Adding the text “**(ba) pay outstanding audit inspection fees due to the Municipality or Halifax Water; and**” after clause (b).

(b) request the release of security on secondary services; ~~and~~

(ba) pay outstanding audit inspection fees due to the Municipality or Halifax Water; and

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 20____.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 20____.

Municipal Clerk