

Committee of the Whole (2) Report

DATE: Tuesday, October 22, 2024

WARD(S): ALL

TITLE: REPEAL AND REPLACEMENT OF BUILDING BY-LAW 050-2018 AND SECURITY DEPOSIT BY-LAW 94-2008, AMENDMENTS TO FEES FOR 2025, AND OTHER BUILDING STANDARDS DEPARTMENT UPDATES

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To seek approval from the Committee of the Whole (2) to repeal and replace building by-law 050-2018 and security deposit by-law 94-2008, and make other related changes, including repealing the Outstanding Building Permits Policy (June 2008).

Report Highlights

- Staff have identified the need for changes to be made to the existing building by-law 050-2018 and the security deposit by-law 94-2008.
- Proposed changes to building by-law include editorial corrections, clarification of who owns the permit application and issued permit, new requirements to manage old open permits, and revisions to refund rules and time-based permits. These changes, and the changes to the security deposit by-law 94-2008 will be reflected in a single new by-law.
- Staff are also looking to update fees for 2025 to account for changes made to building by-law 050-2018 and security deposit by-law 94-2008.
- Staff recommend repealing the City's Outstanding Building Permit Policy (June 2008).

Recommendations

1. THAT the proposed draft building by-law contained in Attachment 1 to this report be approved, in a form satisfactory to Legal Services.
2. THAT the Outstanding Building Permits Policy (June 2008) be repealed and replaced with Standard Operating Procedures in consultation with Legal Services; and
3. THAT the Chief Building Official be delegated the authority to make changes to any other City documents and agreement templates, including development agreements, to reflect the new building by-law, and the other proposed changes discussed in this report.

Background

Building By-law 050-2018

In 2018, Council repealed building by-law 044-2015 and enacted building by-law 050-2018. The changes brought about by by-law 050-2018 were meant to modernize terminology, correct references to provincial statutes and regulations and introduce improvements and editorial changes, including requirements for construction site fencing, conditional permits, related agreements, and delegation of authority.

Since the enactment of building by-law 050-2018, staff have identified the need for changes and enhancements to the by-law which will result in its repeal and replacement. These include:

1. clarifying ownership of the permit application and issued permit;
2. new requirements to manage old open permits;
3. revisions to the refund rules and time-based permits;
4. new language to address digital permit submissions;
5. clarification of transfer of permit/permit application processes;
6. clarification of permit revocation processes;
7. corrections and other editorial updates; and
8. updates to Schedules.

Outstanding Building Permits Policy (June 2008)

During Phase 2 of the Building Standards Audit (2022), the auditor recommended that management implement a policy of dealing with inactive permits and proactively follow up with permit holders to maintain the building permit active. The auditor also recommended that management bring forward a report for Council's consideration that would recommend updating or retracting the outdated 2008 Outstanding Permit Policy.

Security Deposit By-law 94-2008

In 2008 Council approved the adoption of a refundable security deposit that would be collected prior to issuance of a building permit. The purpose of the refundable security deposit was to assist in encouraging the builder to call the City for all the necessary inspections so that the building permit could be closed; however, the security deposit by-law is dated and staff are recommending changes. For ease of reference and to better align these changes with items in the building by-law, staff are recommending that the security deposit by-law 94-2008 be repealed and that any items within that by-law that are to be continued on, will be addressed in the City's fees and charges by-law, and the new by-law that will replace building by-law 050-2018.

Fees and Charges By-law 224-2023

Given that the repeal and replacement of the building by-law 050-2018 and security deposit by-law 94-2008 will result in changes to Building Standards' Schedule "F" beginning in 2025, staff wanted to take this opportunity to present to Council the anticipated Building Standards' Schedule "F" for the 2025 fees and charges by-law.

Previous Reports/Authority

Not applicable.

Analysis and Options

Building By-law 050-2018

1. Clarify ownership of the permit application and issued permit

The current building by-law does not describe who is the owner of the building permit application or issued building permit which has resulted in conflicts between the permit applicant and owner. Therefore, staff are seeking to have the new by-law provide clarity regarding who the City considers the owner of the permit application and issued permit to be. Staff are also revising the Building Standards Department's Building Permit Applicant Authorization form to further clarify ownership of application materials and fees.

2. New requirements to manage old open permits

As noted below under "Security Deposit By-law 94-2008", the new by-law that will replace building by-law 050-2018 and security deposit by-law 94-2008 will, among other things, address fees meant to assist in managing open permits.

3., 4., 5., 6., 7., 8. Refund rules, time-based permits, digital permit submission, etc.

Additional changes and revisions are being proposed to address or clarify the refund rules, time-based permits, digital permit submissions, clarification of transfer of permit and permit application processes, corrections and other editorial updates to Schedules. These new and revised provisions can be found in the draft by-law in Attachment 1.

Outstanding Building Permits Policy (June 2008)

Considering recent developments in the law and to provide greater flexibility staff recommend that the 2008 Outstanding Permit Policy be repealed and replaced with Standard Operating Procedures developed and maintained by Building Standards Department staff in consultation with Legal Services and any other relevant stakeholder departments. The anticipated result of these Standard Operating Procedures will be the continued monitoring and managing of open permits in the City with the City taking a more pro-active approach in ensuring compliance with the Building Code and having the permits closed.

Security Deposit By-law 94-2008

Staff recognize the positive impact that securities, first imposed as part of the security deposit by-law 94-2008, has had on the closing of permits and in reducing the number of outstanding permits. For that reason, staff are proposing a returnable fee for a permit (to be returned upon the permit being closed) and an open permit maintenance fee in the new by-law. The open permit maintenance fee is meant to recover staff time and resources involved in checking in on open permits (which includes attending at the site, correspondence with the owner, etc.). The intention is that this fee only be applied where the permit owner is not responsive or uncooperative with the building inspectors. Staff have engaged a consultant to conduct a cost analysis and believe the fees set out in the proposed Schedule "F" found in Attachment 2, are generally reflective of the costs that would be incurred by staff. Furthermore, any open permit maintenance fees collected will be devoted to the Building Standards Department for continued use in meeting its obligations to manage open permits.

If the imposition of the open permit maintenance fee is warranted under the new by-law, the fee will be added to the tax roll and collected in the same manner as municipal taxes; alternatively, if the City is holding a returnable fee, it may use that fee to satisfy the open permit maintenance fee. Standard operating procedures to advise building owners of the outstanding permit, and the imposition of annual open permit maintenance fees is being developed in consultation with the relevant City departments.

Fees and Charges By-law 224-2023

The proposed repeal and replacement of building by-law 050-2018 and security deposit by-law 94-2008 with the new by-law will result in changes to Building Standards' Schedule "F" of the fees and charges by-law 224-2023 which you can find in Attachment 2. The proposed fees will be included as part of the 2025 budget process.

Financial Impact

There are no negative financial impacts on the operations of the Building Standards department.

Operational Impact

Legal Services has been consulted in the preparation of this report.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff's proposed recommendations will ultimately assist staff in managing permits and providing further clarity for the public when they are trying to understand the processes surrounding applying for a building permit and otherwise engaging with the Building Standards' Department. These outcomes contribute to fulfilling the City's strategic objectives, namely Service Excellence and Accountability.

This report has been prepared in consultation with Financial Planning and Development Finance, and Legal Services.

For more information, please contact: Ben Pucci, Director of Building Standards, ext. 8872.

Attachments

1. Proposed draft building by-law to replace building by-law 050-2018 and security deposit by-law 94-2008.
2. Proposed amendments to Schedule "F" of the fees and charges by-law 224-2023.

Prepared by

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