

7. D.C. Policy Recommendations and D.C. By-law Rules

7.1 Introduction

s.s.5(1)9 states that rules must be developed:

“...to determine if a development charge is payable in any particular case and to determine the amount of the charge, subject to the limitations set out in subsection 6.”

Paragraph 10 of the section goes on to state that the rules may provide for exemptions, phasing in and/or indexing of D.C.s.

s.s.5(6) establishes the following restrictions on the rules:

- the total of all D.C.s that would be imposed on anticipated development must not exceed the capital costs determined under 5(1) 2-8 for all services involved;
- if the rules expressly identify a type of development, they must not provide for it to pay D.C.s that exceed the capital costs that arise from the increase in the need for service for that type of development; however, this requirement does not relate to any particular development; and
- if the rules provide for a type of development to have a lower D.C. than is allowed, the rules for determining D.C.s may not provide for any resulting shortfall to be made up via other development.

With respect to “the rules,” Section 6 states that a D.C. by-law must expressly address the matters referred to above re s.s.5(1) para. 9 and 10, as well as how the rules apply to the redevelopment of land.

The rules provided are based on the Town’s existing policies; however, there are items under consideration at this time and these may be refined prior to adoption of the by-law.

7.2 D.C. By-law Structure

It is recommended that:

- the Town uses a uniform Town-wide D.C. calculation for all Town-wide services;
- water, wastewater, and stormwater services, be imposed on the urban service areas of the Town; and
- one Municipal D.C. by-law be used for all services.

7.3 D.C. By-law Rules

The following subsections set out the recommended rules governing the calculation, payment and collection of D.C.s in accordance with Section 6 of the D.C.A.

It is recommended that the following sections provide the basis for the D.C.s:

7.3.1 Payment in any Particular Case

In accordance with the D.C.A., s.2(2), a D.C. be calculated, payable and collected where the development requires one or more of the following:

- a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the Planning Act;
- b) the approval of a minor variance under Section 45 of the Planning Act;
- c) a conveyance of land to which a by-law passed under section 50(7) of the Planning Act applies;
- d) the approval of a plan of subdivision under Section 51 of the Planning Act;
- e) a consent under Section 53 of the Planning Act;
- f) the approval of a description under section 50 of the Condominium Act; or
- g) the issuing of a building permit under the Building Code Act in relation to a building or structure.

7.3.2 Determination of the Amount of the Charge

The following conventions be adopted:

- 1) Costs allocated to residential uses will be assigned to different types of residential units based on the average occupancy for each housing type constructed during the previous decade. Costs allocated to non-residential uses will be assigned based on the amount of sq.ft. of gross floor area constructed for eligible uses (i.e. industrial, commercial and institutional).

- 2) Costs allocated to residential and non-residential uses are based upon a number of conventions, as may be suited to each municipal circumstance, e.g.
- for Administration studies and Non-administration facilities, the costs have been based on a population vs. employment growth ratio (74%/26%) for residential and non-residential, respectively) over the ten-year forecast period;
 - for Indoor & Outdoor Recreation and Library services, a 5% non-residential attribution has been made to recognize use by the non-residential sector;
 - for Services Related to a Highway, Police, and Fire Services, a 73% residential/27% non-residential attribution has been made based on a population vs. employment growth ratio over the 20-year forecast period;
 - for Wastewater and Stormwater services, a 79% residential/21% non-residential allocation has been made based on population to employment growth within the Town over the urban buildout forecast period; and
 - for Water services a 75% residential/25% non-residential allocation has been made based on population vs. employment growth over the buildout urban forecast period, adjusted to include greenhouse space and employees.
- 3) D.C.s for bunk houses shall be charged on a per capita basis, with a maximum charge per building based on 10 persons.

7.3.3 Application to Redevelopment of Land

As a result of the redevelopment of land, a building or structure existing on the same land within 5 years prior to the date of payment of D.C.s in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the D.C.s otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable D.C. by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable D.C.s by the gross

floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the D.C.s otherwise payable with respect to the redevelopment.

7.3.4 Exemptions (full or partial)

a) Statutory exemptions

- industrial building additions of up to and including 50% of the existing gross floor area (defined in O.Reg. 82/98, s.1) of the building; for industrial building additions which exceed 50% of the existing gross floor area, only the portion of the addition in excess of 50% is subject to D.C.s (s.4(3)) of the D.C.A.;
- buildings or structures owned by and used for the purposes of any municipality, local board or Board of Education (s.3);
- residential development that results only in the enlargement of an existing dwelling unit, or that results only in the creation of up to two additional dwelling units (based on prescribed limits set out in s.2 of O.Reg. 82/98).

b) Non-statutory exemptions

- a place of worship; and
- a bona fide farm building.

7.3.5 Phasing in

No provisions for phasing in the D.C. are provided in the D.C. by-law.

7.3.6 Timing of Collection

A D.C. that is applicable under Section 5 of the D.C.A. shall be calculated and payable;

- where a permit is required under the Building Code Act in relation to a building or structure, the owner shall pay the D.C. at the issuance of the first building permit, prior to the commencement of development or redevelopment as the case may be; and
- Despite above, Council, from time to time, and at any time, may enter into agreements providing for all or any part of a D.C. to be paid before or after it would otherwise be payable.

7.3.7 Indexing

Indexing of the D.C.s shall be implemented on a mandatory basis annually commencing on January 1st, 2019 and each year thereafter, in accordance with the Statistics Canada Quarterly, Non-Residential Building Construction Price Index (CANSIM Table 327-0043)¹ for the most recent year-over-year period.

7.3.8 The Applicable Areas

The charges developed herein provide for varying charges within the Town, as follows:

- All Town-wide Services – the full residential and non-residential charge will be imposed on all lands within the Town (except for greenhouse and wind turbine development);
- Wind Turbines – services related to a highway, fire protection, police, administration studies, and non-administration facilities will be applied per wind turbines based on the single-detached unit rate;
- Greenhouses – services related to a highway, fire protection, police, administration studies, and water services will be applied per sq.ft. of greenhouse space based on the non-residential rate;
- Water, Wastewater, and Stormwater – the full residential and non-residential charge will be imposed on the urban service areas of the Town (except for greenhouse developments).

7.4 Other D.C. By-law Provisions

It is recommended that:

7.4.1 Categories of Services for Reserve Fund and Credit Purposes

The Town's D.C. collections are currently reserved in 13 separate reserve funds: Services Related to a Highway, Other Transportation Services, Police Services, Fire Protection Services, Municipal Parking Services, Outdoor Recreation Services, Indoor Recreation Services, Library Services, Administration, Non-administrative Space, Stormwater Services, and Wastewater Services (Ruthven, Kingsville, and Lakeshore West areas and Cottam area). It is recommended that the Town combine the

¹ O.Reg 82/98 referenced "The Statistics Canada Quarterly, Construction Price Statistics, catalogue number 62-007" as the index source. As of the end of December, 2013 this catalogue has been discontinued and replaced by this web based table.

wastewater reserve funds, combine the services related to a highway and other transportation reserve funds, combine indoor and outdoor recreation, and establish a reserve fund for water services. Appendix D outlines the reserve fund policies that the Town is required to follow as per the D.C.A.

7.4.2 By-law In-force Date

A by-law under the D.C.A. comes into force on the day after which the by-law is passed by Council.

7.4.3 Minimum Interest Rate Paid on Refunds and Charged for Inter-Reserve Fund Borrowing

The minimum interest rate is the Bank of Canada rate on the day on which the by-law comes into force (as per s.11 of O.Reg. 82/98).

7.4.4 Area Rating

As noted earlier, Bill 73 has introduced two new sections where Council must consider the use of area specific charges:

1. Section 2(9) of the Act now requires a municipality to implement area specific D.C.s for either specific services which are prescribed and/or for specific municipalities which are to be regulated. (note that at this time, no municipalities or services are prescribed by the Regulations)
2. Section 10(2)c.1 of the D.C.A. requires that "the development charges background study shall include consideration of the use of more than one development charge by-law to reflect different needs for services in different areas"

In regard to the first item, there are no services or specific municipalities identified in the regulations which must be area rated. The second item requires Council to consider the use of area rating.

Presently, the Town's by-law provides for area rating for wastewater and stormwater services. All other Town services are recovered based on a uniform, Town-wide basis. It is recommended that water, wastewater, and stormwater services are provided based on an urban area basis. There are several reasons why the Town-wide services have not been imposed on an area-specific basis including:

7.5 Other Recommendations

It is recommended that Council:

"Whenever appropriate, request that grants, subsidies and other contributions be clearly designated by the donor as being to the benefit of existing development or new development, as applicable;"

"Adopt the assumptions contained herein as an 'anticipation' with respect to capital grants, subsidies and other contributions;"

"Continue the D.C. approach to calculate the charges on a Town-wide basis for all services and on a uniform urban-area basis for water, wastewater, and stormwater services";

"Approve the capital project listing set out in Chapter 5 of the D.C.s Background Study dated November 8, 2017, subject to further annual review during the capital budget process;"

"Approve the D.C.s Background Study dated November 8, 2017, as amended (if applicable);"

"Determine that no further public meeting is required;" and

"Approve the D.C. By-law as set out in Appendix G."