City Council – Development Charges Complaint Hearing Meeting Agenda

Monday, January 22, 2018 – 5:00 p.m.
Council Chambers, Guelph City Hall, 1 Carden Street

Please turn off or place on non-audible all electronic devices during the meeting.

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Open Meeting – 5:00 p.m.

Disclosure of Pecuniary Interest and General Nature Thereof

Development Charges Complaint Procedures Orientation

Christopher C. Cooper, City Solicitor

Recess

Monday, January 22, 2018 – 6:00 p.m.
Council Chambers, Guelph City Hall, 1 Carden Street

Public Meeting to Hear Complaint
Under Section 20 of the Development Charges Act, 1997

Development Charges Complaint – 561 York Road Guelph – Foundation Building Permit Application – 17 005798PF

Complainant:
Trenton Johnson, Solicitor for the Agent for 1776410 Ontario Ltd.
Ray Ferraro, Agent for 1776410 Ontario Ltd.

Respondent:
Darrell Mast, Associate Solicitor, Counsel for the Respondent

Complainant Response:
Trenton Johnson, Solicitor for the Agent for 1776410 Ontario Ltd.
Ray Ferraro, Agent for 1776410 Ontario Ltd.

Deliberation and Decision:

Council shall deliberate and make a decision on the complaint.

Adjournment

Hearing Procedure: Complaint under the Development Charges Act

Council Orientation

January 22, 2018

HEARING PROCEDURE

- The procedure in respect of the hearing of a complaint under the Development Charges Act, 1997 is governed, generally, by the Statutory Powers Procedure Act and, specifically, section 20 of the Development Charges Act, 1997

- For the purposes of the hearing, City Council will be acting in its capacity as a tribunal and exercising quasi-judicial powers

The Legislation

Statutory Powers Procedure Act

Application of Act

3. (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision

- Subsection 3(2) of the Act sets out those situations where the Act does not apply

Statutory Powers Procedure Act

- Under subsection 1(1) of this Act,

"statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,

> (a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
>
> (b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not

- "tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute

Statutory Powers Procedure Act

Decision; interest

Decision

17. (1) A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party

Interest

(2) A tribunal that makes an order for the payment of money shall set out in the order the principal sum, and if interest is payable, the rate of interest and the date from which it is to be calculated

Development Charges Act, 1997, Section 20

Complaint to council of municipality

20 (1) A person required to pay a development charge, or the person's agent, may complain to the council of the municipality imposing the development charge that,

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or

(c) there was an error in the application of the development charge by-law.

Development Charges Act, 1997, Section 20 (cont.)

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

Council's powers

(6) After hearing the evidence and submissions of the complainant, **the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint**.

Development Charges Act, 1997, Section 22

Appeal of council's decision

22 (1) A complainant may appeal the decision of the council of the municipality to the Ontario Municipal Board by filing with the clerk of the municipality, on or before the last day for appealing the decision, a notice of appeal setting out the reasons for the appeal.

Additional ground

(2) A complainant may also appeal to the Ontario Municipal Board if the council of the municipality does not deal with the complaint within 60 days after the complaint is made by filing with the clerk of the municipality a notice of appeal.

PLEASE NOTE

During the break between the end of this presentation and the commencement of the Complaint Hearing at 6:00 p.m., I respectfully ask the Members of Council not to discuss the complaint amongst yourselves or with anyone else.

QUESTIONS?

Ontario

ServiceOntario
e-Laws

Français

Statutory Powers Procedure Act

R.S.O. 1990, CHAPTER S.22

Consolidation Period: From June 1, 2011 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 6, s. 87.

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Interpretation

1. (1) In this Act,

"electronic hearing" means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another; ("audience électronique")

"hearing" means a hearing in any proceeding; ("audience")

"licence" includes any permit, certificate, approval, registration or similar form of permission required by law; ("autorisation")

"municipality" has the same meaning as in the *Municipal Affairs Act*; ("municipalité")

"oral hearing" means a hearing at which the parties or their representatives attend before the tribunal in person; ("audience orale")

"proceeding" means a proceeding to which this Act applies; ("instance")

"representative" means, in respect of a proceeding to which this Act applies, a person authorized under the *Law Society Act* to represent a person in that proceeding; ("représentant")

"statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not; ("compétence légale de décision")

"tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute; ("tribunal")

"written hearing" means a hearing held by means of the exchange of documents, whether in written form or by electronic means. ("audience écrite") R.S.O. 1990, c. S.22, s. 1 (1); 1994, c. 27, s. 56 (1-3); 2002, c. 17, Sched. F, Table; 2006, c. 21, Sched. C, s. 134 (1, 2).

Meaning of "person" extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to a proceeding in the exercise of a statutory power of decision under the statute conferring the power shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties. R.S.O. 1990, c. S.22, s. 1 (2).

Liberal construction of Act and rules

2. This Act, and any rule made by a tribunal under subsection 17.1 (4) or section 25.1, shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits. 1999, c. 12, Sched. B, s. 16 (1); 2006, c. 19, Sched. B, s. 21 (1).

Application of Act

3. (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision. R.S.O. 1990, c. S.22, s. 3 (1); 1994, c. 27, s. 56 (5).

Where Act does not apply

(2) This Act does not apply to a proceeding,

(a) before the Assembly or any committee of the Assembly;

(b) in or before,

(i) the Court of Appeal,

(ii) the Superior Court of Justice,

(iii) the Ontario Court of Justice,

(iv) the Family Court of the Superior Court of Justice,

(v) the Small Claims Court, or

(vi) a justice of the peace;

(c) to which the Rules of Civil Procedure apply;

(d) before an arbitrator to which the *Arbitrations Act* or the *Labour Relations Act* applies;

(e) at a coroner's inquest;

(f) of a commission appointed under the *Public Inquiries Act, 2009*;

(g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or

(h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. R.S.O. 1990, c. S.22, s. 3 (2); 1994, c. 27, s. 56 (6); 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2009, c. 33, Sched. 6, s. 87.

Waiver

Waiver of procedural requirement

4.(1)Any procedural requirement of this Act, or of another Act or a regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal. 1997, c. 23, s. 13 (1).

Same, rules

(2)Any provision of a tribunal's rules made under section 25.1 may be waived in accordance with the rules. 1994, c. 27, s. 56 (7).

Disposition without hearing

4.1 If the parties consent, a proceeding may be disposed of by a decision of the tribunal given without a hearing, unless another Act or a regulation that applies to the proceeding provides otherwise. 1997, c. 23, s. 13 (2).

Panels, certain matters

4.2(1)A procedural or interlocutory matter in a proceeding may be heard and determined by a panel consisting of one or more members of the tribunal, as assigned by the chair of the tribunal. 1994, c. 27, s. 56 (8).

Assignments

(2)In assigning members of the tribunal to a panel, the chair shall take into consideration any requirement imposed by another Act or a regulation that applies to the proceeding that the tribunal be representative of specific interests. 1997, c. 23, s. 13 (3).

Decision of panel

(3)The decision of a majority of the members of a panel, or their unanimous decision in the case of a two-member panel, is the tribunal's decision. 1994, c. 27, s. 56 (8).

Panel of one, reduced panel

Panel of one

4.2.1(1)The chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person.

Reduction in number of panel members

(2)Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent. 1999, c. 12, Sched. B, s. 16 (2).

Expiry of term

4.3 If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. 1997, c. 23, s. 13 (4).

Incapacity of member

4.4(1)If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining member or members may complete the hearing and give a decision. 1994, c. 27, s. 56 (9).

Other Acts and regulations

(2)Subsection (1) does not apply if another Act or a regulation specifically deals with the issue of what takes place in the circumstances described in subsection (1). 1997, c. 23, s. 13 (5).

Decision not to process commencement of proceeding

4.5(1)Subject to subsection (3), upon receiving documents relating to the commencement of a proceeding, a tribunal or its administrative staff may decide not to process the documents relating to the commencement of the proceeding if,

(a) the documents are incomplete;

(b) the documents are received after the time required for commencing the proceeding has elapsed;

(c) the fee required for commencing the proceeding is not paid; or

(d) there is some other technical defect in the commencement of the proceeding.

Notice

(2)A tribunal or its administrative staff shall give the party who commences a proceeding notice of its decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents.

Rules under s. 25.1

(3)A tribunal or its administrative staff shall not make a decision under subsection (1) unless the tribunal has made rules under section 25.1 respecting the making of such decisions and those rules shall set out,

(a) any of the grounds referred to in subsection (1) upon which the tribunal or its administrative staff may decide not to process the documents relating to the commencement of a proceeding; and

(b) the requirements for the processing of the documents to be resumed.

Continuance of provisions in other statutes

(4)Despite section 32, nothing in this section shall prevent a tribunal or its administrative staff from deciding not to process documents relating to the commencement of a proceeding on grounds that differ from those referred to in subsection (1) or without complying with subsection (2) or (3) if the tribunal or its staff does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Dismissal of proceeding without hearing

4.6(1)Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if,

(a) the proceeding is frivolous, vexatious or is commenced in bad faith;

(b) the proceeding relates to matters that are outside the jurisdiction of the tribunal; or

(c) some aspect of the statutory requirements for bringing the proceeding has not been met.

Notice

(2)Before dismissing a proceeding under this section, a tribunal shall give notice of its intention to dismiss the proceeding to,

(a) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1) (b); or

(b) the party who commences the proceeding if the proceeding is being dismissed for any

other reason.

Same

(3)The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Right to make submissions

(4)A party who receives a notice under subsection (2) may make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Dismissal

(5)A tribunal shall not dismiss a proceeding under this section until it has given notice under subsection (2) and considered any submissions made under subsection (4).

Rules

(6)A tribunal shall not dismiss a proceeding under this section unless it has made rules under section 25.1 respecting the early dismissal of proceedings and those rules shall include,

(a) any of the grounds referred to in subsection (1) upon which a proceeding may be dismissed;

(b) the right of the parties who are entitled to receive notice under subsection (2) to make submissions with respect to the dismissal; and

(c) the time within which the submissions must be made.

Continuance of provisions in other statutes

(7)Despite section 32, nothing in this section shall prevent a tribunal from dismissing a proceeding on grounds other than those referred to in subsection (1) or without complying with subsections (2) to (6) if the tribunal dismisses the proceeding in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Classifying proceedings

4.7 A tribunal may make rules under section 25.1 classifying the types of proceedings that come before it and setting guidelines as to the procedural steps or processes (such as preliminary motions, pre-hearing conferences, alternative dispute resolution mechanisms, expedited hearings) that apply to each type of proceeding and the circumstances in which other procedures may apply. 1999, c. 12, Sched. B, s. 16 (3).

Alternative dispute resolution

4.8(1)A tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if,

(a) it has made rules under section 25.1 respecting the use of alternative dispute resolution mechanisms; and

(b) all parties consent to participating in the alternative dispute resolution mechanism.

Definition

(2)In this section,

"alternative dispute resolution mechanism" includes mediation, conciliation, negotiation or

any other means of facilitating the resolution of issues in dispute.

Rules

(3)A rule under section 25.1 respecting the use of alternative dispute resolution mechanisms shall include procedural guidelines to deal with the following:

1. The circumstances in which a settlement achieved by means of an alternative dispute resolution mechanism must be reviewed and approved by the tribunal.

2. Any requirement, statutory or otherwise, that there be an order by the tribunal.

Mandatory alternative dispute resolution

(4)A rule under subsection (3) may provide that participation in an alternative dispute resolution mechanism is mandatory or that it is mandatory in certain specified circumstances.

Person appointed to mediate, etc.

(5)A rule under subsection (3) may provide that a person appointed to mediate, conciliate, negotiate or help resolve a matter by means of an alternative dispute resolution mechanism be a member of the tribunal or a person independent of the tribunal. However, a member of the tribunal who is so appointed with respect to a matter in a proceeding shall not subsequently hear the matter if it comes before the tribunal unless the parties consent.

Continuance of provisions in other statutes

(6)Despite section 32, nothing in this section shall prevent a tribunal from directing parties to a proceeding to participate in an alternative dispute resolution mechanism even though the requirements of subsections (1) to (5) have not been met if the tribunal does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Mediators, etc.: not compellable, notes not evidence

Mediators, etc., not compellable

4.9(1)No person employed as a mediator, conciliator or negotiator or otherwise appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism shall be compelled to give testimony or produce documents in a proceeding before the tribunal or in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this or any other Act.

Evidence in civil proceedings

(2)No notes or records kept by a mediator, conciliator or negotiator or by any other person appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism under this or any other Act are admissible in a civil proceeding. 1999, c. 12, Sched. B, s. 16 (3).

Parties

5.The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding. R.S.O. 1990, c. S.22, s. 5.

Written hearings

5.1(1)A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. 1997, c. 23, s. 13 (6).

Exception

(2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.

Same

(2.1) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters. 1999, c. 12, Sched. B, s. 16 (4).

Documents

(3)In a written hearing, all the parties are entitled to receive every document that the tribunal receives in the proceeding. 1994, c. 27, s. 56 (10).

Electronic hearings

5.2(1)A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding. 1997, c. 23, s. 13 (7).

Exception

(2)The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

Same

(3)Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

Participants to be able to hear one another

(4)In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing. 1994, c. 27, s. 56 (10).

Different kinds of hearings in one proceeding

5.2.1A tribunal may, in a proceeding, hold any combination of written, electronic and oral hearings. 1997, c. 23, s. 13 (8).

Pre-hearing conferences

5.3(1)If the tribunal's rules made under section 25.1 deal with pre-hearing conferences, the tribunal may direct the parties to participate in a pre-hearing conference to consider,

(a) the settlement of any or all of the issues;

(b) the simplification of the issues;

(c) facts or evidence that may be agreed upon;

(d) the dates by which any steps in the proceeding are to be taken or begun;

(e) the estimated duration of the hearing; and

(f) any other matter that may assist in the just and most expeditious disposition of the proceeding. 1994, c. 27, s. 56 (11); 1997, c. 23, s. 13 (9).

Other Acts and regulations

(1.1)The tribunal's power to direct the parties to participate in a pre-hearing conference is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (10).

Who presides

(2)The chair of the tribunal may designate a member of the tribunal or any other person to preside at the pre-hearing conference.

Orders

(3)A member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

Disqualification

(4)A member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent. 1994, c. 27, s. 56 (11).

Application of s. 5.2

(5)Section 5.2 applies to a pre-hearing conference, with necessary modifications. 1997, c. 23, s. 13 (10).

Disclosure

5.4(1)If the tribunal's rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

(a) the exchange of documents;

(b) the oral or written examination of a party;

(c) the exchange of witness statements and reports of expert witnesses;

(d) the provision of particulars;

(e) any other form of disclosure. 1994, c. 27, s. 56 (12); 1997, c. 23, s. 13 (11).

Other Acts and regulations

(1.1)The tribunal's power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (12).

Exception, privileged information

(2)Subsection (1) does not authorize the making of an order requiring disclosure of privileged information. 1994, c. 27, s. 56 (12).

Notice of hearing

6.(1)The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

Statutory authority

(2)A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

Oral hearing

(3)A notice of an oral hearing shall include,

(a) a statement of the time, place and purpose of the hearing; and

(b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Written hearing

(4)A notice of a written hearing shall include,

(a) a statement of the date and purpose of the hearing, and details about the manner in

which the hearing will be held;

(b) a statement that the hearing shall not be held as a written hearing if the party satisfies the tribunal that there is good reason for not holding a written hearing (in which case the tribunal is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;

(c) a statement that if the party notified neither acts under clause (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13); 1997, c. 23, s. 13 (13); 1999, c. 12, Sched. B, s. 16 (5).

Electronic hearing

(5)A notice of an electronic hearing shall include,

(a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;

(b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;

(c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and

(d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Effect of non-attendance at hearing after due notice

7.(1)Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

Same, written hearings

(2)Where notice of a written hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (4) (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

Same, electronic hearings

(3)Where notice of an electronic hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (5) (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (15).

Where character, etc., of a party is in issue

8.Where the good character, propriety of conduct or competence of a party is an issue in a

proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. R.S.O. 1990, c. S.22, s. 8.

Hearings to be public; maintenance of order

Hearings to be public, exceptions

9.(1)An oral hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public. R.S.O. 1990, c. S.22, s. 9 (1); 1994, c. 27, s. 56 (16).

Written hearings

(1.1)In a written hearing, members of the public are entitled to reasonable access to the documents submitted, unless the tribunal is of the opinion that clause (1) (a) or (b) applies. 1994, c. 27, s. 56 (17).

Electronic hearings

(1.2)An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

(a) it is not practical to hold the hearing in a manner that is open to the public; or

(b) clause (1) (a) or (b) applies. 1997, c. 23, s. 13 (14).

Maintenance of order at hearings

(2)A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. R.S.O. 1990, c. S.22, s. 9 (2); 1994, c. 27, s. 56 (18).

Proceedings involving similar questions

9.1(1)If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

(a) combine the proceedings or any part of them, with the consent of the parties;

(b) hear the proceedings at the same time, with the consent of the parties;

(c) hear the proceedings one immediately after the other; or

(d) stay one or more of the proceedings until after the determination of another one of them.

Exception

(2)Subsection (1) does not apply to proceedings to which the *Consolidated Hearings Act*

applies. 1994, c. 27, s. 56 (19).

Same

(3)Clauses (1) (a) and (b) do not apply to a proceeding if,

(a) any other Act or regulation that applies to the proceeding requires that it be heard in private;

(b) the tribunal is of the opinion that clause 9 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 13 (15).

Conflict, consent requirements

(4)The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

Use of same evidence

(5)If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

Right to representation

10. A party to a proceeding may be represented by a representative. 2006, c. 21, Sched. C, s. 134 (3).

Examination of witnesses

10.1A party to a proceeding may, at an oral or electronic hearing,

(a) call and examine witnesses and present evidence and submissions; and

(b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (20).

Rights of witnesses to representation

11. (1) A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the tribunal. 2006, c. 21, Sched. C, s. 134 (4).

Idem

(2) Where an oral hearing is closed to the public, the witness's representative is not entitled to be present except when that witness is giving evidence. R.S.O. 1990, c. S.22, s. 11 (2); 1994, c. 27, s. 56 (22); 2006, c. 21, Sched. C, s. 134 (5).

Summonses

12. (1) A tribunal may require any person, including a party, by summons,

(a) to give evidence on oath or affirmation at an oral or electronic hearing; and

(b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceeding and admissible at a hearing. R.S.O. 1990, c. S.22, s. 12 (1); 1994, c. 27, s. 56 (23).

Form and service of summons

(2) A summons issued under subsection (1) shall be in the prescribed form (in English or French) and,

(a) where the tribunal consists of one person, shall be signed by him or her;

(b) where the tribunal consists of more than one person, shall be signed by the chair of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal. 1994, c. 27, s. 56 (24).

Same

(3) The summons shall be served personally on the person summoned. 1994, c. 27, s. 56 (24).

Fees and allowances

(3.1) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. 1994, c. 27, s. 56 (24); 2006, c. 19, Sched. C, s. 1 (1).

Bench warrant

(4) A judge of the Superior Court of Justice may issue a warrant against a person if the judge is satisfied that,

(a) a summons was served on the person under this section;

(b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and

(c) the person's attendance or participation is material to the ends of justice. 1994, c. 27, s. 56 (25); 2006, c. 19, Sched. C, s. 1 (1).

Same

(4.1) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the tribunal forthwith and,

(a) detained in custody as the judge may order until the person's presence as a witness is no longer required; or

(b) in the judge's discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence. 1994, c. 27, s. 56 (25).

Proof of service

(5) Service of a summons may be proved by affidavit in an application to have a warrant issued under subsection (4). 1994, c. 27, s. 56 (26).

Certificate of facts

(6) Where an application to have a warrant issued is made on behalf of a tribunal, the person constituting the tribunal or, if the tribunal consists of more than one person, the chair of the tribunal may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts. 1994, c. 27, s. 56 (26).

Same

(7) Where the application is made by a party to the proceeding, the facts relied on to

establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party's affidavit. 1994, c. 27, s. 56 (26).

Contempt proceedings

13.(1)Where any person without lawful excuse,

(a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or

(b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his or her power or control legally required by the tribunal to be produced by him or her or to answer any question to which the tribunal may legally require an answer; or

(c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court. R.S.O. 1990, c. S.22, s. 13; 1994, c. 27, s. 56 (27).

Same

(2)Subsection (1) also applies to a person who,

(a) having objected under clause 6 (4) (b) to a hearing being held as a written hearing, fails without lawful excuse to participate in the oral or electronic hearing of the matter; or

(b) being a party, fails without lawful excuse to attend a pre-hearing conference when so directed by the tribunal. 1997, c. 23, s. 13 (17).

Protection for witnesses

14.(1)A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1990, c. S.22, s. 14 (1); 1994, c. 27, s. 56 (28).

(2)Repealed: 1994, c. 27, s. 56 (29).

Evidence

What is admissible in evidence at a hearing

15.(1)Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

What is inadmissible in evidence at a hearing

(2)Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceeding arises or any other statute.

Conflicts

(3)Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Copies

(4)Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

Photocopies

(5)Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in evidence

(6)A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S.O. 1990, c. S.22, s. 15.

Use of previously admitted evidence

15.1(1)The tribunal may treat previously admitted evidence as if it had been admitted in a proceeding before the tribunal, if the parties to the proceeding consent. 1994, c. 27, s. 56 (30).

Definition

(2)In subsection (1),

"previously admitted evidence" means evidence that was admitted, before the hearing of the proceeding referred to in that subsection, in any other proceeding before a court or tribunal, whether in or outside Ontario.

Additional power

(3)This power conferred by this section is in addition to the tribunal's power to admit evidence under section 15. 1997, c. 23, s. 13 (18).

Witness panels

15.2A tribunal may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard. 1994, c. 27, s. 56 (31).

Notice of facts and opinions

16.A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and

(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge. R.S.O. 1990, c. S.22, s. 16.

Interim decisions and orders

16.1(1)A tribunal may make interim decisions and orders.

Conditions

(2)A tribunal may impose conditions on an interim decision or order.

Reasons

(3)An interim decision or order need not be accompanied by reasons. 1994, c. 27, s. 56 (32).

Time frames

16.2 A tribunal shall establish guidelines setting out the usual time frame for completing proceedings that come before the tribunal and for completing the procedural steps within those proceedings. 1999, c. 12, Sched. B, s. 16 (6).

Decision; interest

Decision

17.(1)A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party. R.S.O. 1990, c. S.22, s. 17; 1993, c. 27, Sched.

Interest

(2)A tribunal that makes an order for the payment of money shall set out in the order the principal sum, and if interest is payable, the rate of interest and the date from which it is to be calculated. 1994, c. 27, s. 56 (33).

Costs

17.1 (1) Subject to subsection (2), a tribunal may, in the circumstances set out in rules made under subsection (4), order a party to pay all or part of another party's costs in a proceeding. 2006, c. 19, Sched. B, s. 21 (2).

Exception

(2) A tribunal shall not make an order to pay costs under this section unless,

(a) the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or a party has acted in bad faith; and

(b) the tribunal has made rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Amount of costs

(3) The amount of the costs ordered under this section shall be determined in accordance with the rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Rules

(4) A tribunal may make rules with respect to,

(a) the ordering of costs;

(b) the circumstances in which costs may be ordered; and

(c) the amount of costs or the manner in which the amount of costs is to be determined. 2006, c. 19, Sched. B, s. 21 (2).

Same

(5) Subsections 25.1 (3), (4), (5) and (6) apply with respect to rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from ordering a party to pay all or part of another party's costs in a proceeding in circumstances other than those set out in, and without complying with, subsections (1) to (3) if the tribunal makes the order in accordance with the provisions of an Act that are in force on February 14, 2000. 2006, c. 19, Sched. B, s. 21 (2).

Transition

(7) This section, as it read on the day before the effective date, continues to apply to proceedings commenced before the effective date. 2006, c. 19, Sched. B, s. 21 (2).

Same

(8) Rules that are made under section 25.1 before the effective date and comply with subsection (4) are deemed to be rules made under subsection (4) until the earlier of the following days:

1. The first anniversary of the effective date.
2. The day on which the tribunal makes rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Definition

(9) In subsections (7) and (8),

"effective date" means the day on which section 21 of Schedule B to the *Good Government Act, 2006* comes into force. 2006, c. 19, Sched. B, s. 21 (2).

Notice of decision

18. (1) The tribunal shall send each party who participated in the proceeding, or the party's representative, a copy of its final decision or order, including the reasons if any have been given,

(a) by regular lettermail;

(b) by electronic transmission;

(c) by telephone transmission of a facsimile; or

(d) by some other method that allows proof of receipt, if the tribunal's rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

Use of mail

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

Use of electronic or telephone transmission

(3) If the copy is sent by electronic transmission or by telephone transmission of a

facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

Use of other method

(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal's rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

Failure to receive copy

(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party's control, receive the copy until a later date than the deemed day of receipt, subsection (2), (3) or (4), as the case may be, does not apply. 1994, c. 27, s. 56 (34).

Enforcement of orders

19. (1) A certified copy of a tribunal's decision or order in a proceeding may be filed in the Superior Court of Justice by the tribunal or by a party and on filing shall be deemed to be an order of that court and is enforceable as such. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Notice of filing

(2) A party who files an order under subsection (1) shall notify the tribunal within 10 days after the filing. 1994, c. 27, s. 56 (35).

Order for payment of money

(3) On receiving a certified copy of a tribunal's order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Superior Court of Justice. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Record of proceeding

20.A tribunal shall compile a record of any proceeding in which a hearing has been held which shall include,

(a) any application, complaint, reference or other document, if any, by which the proceeding was commenced;

(b) the notice of any hearing;

(c) any interlocutory orders made by the tribunal;

(d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;

(e) the transcript, if any, of the oral evidence given at the hearing; and

(f) the decision of the tribunal and the reasons therefor, where reasons have been given. R.S.O. 1990, c. S.22, s. 20.

Adjournments

21.A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. R.S.O. 1990, c. S.22, s. 21.

Correction of errors

21.1A tribunal may at any time correct a typographical error, error of calculation or similar

error made in its decision or order. 1994, c. 27, s. 56 (36).

Power to review

21.2(1)A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 13 (20).

Time for review

(2)The review shall take place within a reasonable time after the decision or order is made.

Conflict

(3)In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

Administration of oaths

22.A member of a tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. R.S.O. 1990, c. S.22, s. 22.

Powers re control of proceedings

Abuse of processes

23. (1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes. R.S.O. 1990, c. S.22, s. 23 (1).

Limitation on examination

(2) A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (37).

Exclusion of representatives

(3) A tribunal may exclude from a hearing anyone, other than a person licensed under the *Law Society Act*, appearing on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness, or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 2006, c. 21, Sched. C, s. 134 (7).

Notice, etc.

24.(1)Where a tribunal is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable,

(a) to give notice of the hearing; or

(b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice

(2)A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. R.S.O. 1990, c. S.22, s. 24.

Appeal operates as stay, exception

25.(1)An appeal from a decision of a tribunal to a court or other appellate body operates as

a stay in the matter unless,

(a) another Act or a regulation that applies to the proceeding expressly provides to the contrary; or

(b) the tribunal or the court or other appellate body orders otherwise. 1997, c. 23, s. 13 (21).

Idem

(2)An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the meaning of subsection (1). R.S.O. 1990, c. S.22, s. 25 (2).

Control of process

25.0.1 A tribunal has the power to determine its own procedures and practices and may for that purpose,

(a) make orders with respect to the procedures and practices that apply in any particular proceeding; and

(b) establish rules under section 25.1. 1999, c. 12, Sched. B, s. 16 (8).

Rules

25.1 (1) A tribunal may make rules governing the practice and procedure before it. 1994, c. 27, s. 56 (38).

Application

(2) The rules may be of general or particular application. 1994, c. 27, s. 56 (38).

Consistency with Acts

(3) The rules shall be consistent with this Act and with the other Acts to which they relate. 1994, c. 27, s. 56 (38).

Public access

(4) The tribunal shall make the rules available to the public in English and in French. 1994, c. 27, s. 56 (38).

***Legislation Act, 2006*, Part III**

(5) Rules adopted under this section are not regulations as defined in Part III (Regulations) of the *Legislation Act, 2006*. 1994, c. 27, s. 56 (38); 2006, c. 21, Sched. F, s. 136 (1).

Additional power

(6) The power conferred by this section is in addition to any power to adopt rules that the tribunal may have under another Act. 1994, c. 27, s. 56 (38).

Regulations

26. The Lieutenant Governor in Council may make regulations prescribing forms for the purpose of section 12. 1994, c. 27, s. 56 (41).

Rules, etc., available to public

27. A tribunal shall make any rules or guidelines established under this or any other Act available for examination by the public. 1999, c. 12, Sched. B, s. 16 (9).

Substantial compliance

28. Substantial compliance with requirements respecting the content of forms, notices or

documents under this Act or any rule made under this or any other Act is sufficient. 1999, c. 12, Sched. B, s. 16 (9).

29.-31. Repealed: 1994, c. 27, s. 56 (40).

Conflict

32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply despite anything in this Act, the provisions of this Act prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. R.S.O. 1990, c. S.22, s. 32; 1994, c. 27, s. 56 (42).

33., 34. Repealed: 1994, c. 27, s. 56 (43).

FORMS 1, 2 Repealed: 1994, c. 27, s. 56 (44).

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Development Charges Act, 1997

S.O. 1997, CHAPTER 27

Consolidation Period: From May 30, 2017 to the e-Laws currency date.

Last amendment: 2017, c. 10, Sched. 4, s. 2.

Legislative History: 1997, c. 31, s. 146; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12; 2006, c. 33, Sched. H; 2009, c. 33, Sched. 2, s. 24; 2015, c. 26, s. 1-10; 2015, c. 28, Sched. 1, s. 148; 2016, c. 25, Sched. 1; 2017, c. 10, Sched. 4, s. 2.

CONTENTS

PART I
DEFINITIONS

Definitions

1 In this Act,

"area municipality" means a lower-tier municipality; ("municipalité de secteur")

"development" includes redevelopment; ("aménagement")

"development charge by-law" means a by-law made under section 2; ("règlement de redevances d'aménagement")

"front-ending agreement" means an agreement under section 44; ("accord initial")

"local board" means a local board as defined in section 1 of the *Municipal Affairs Act* other than a board as defined in subsection 1 (1) of the *Education Act*. ("conseil local")

"prescribed" means prescribed by the regulations; ("prescrit")

"regulations" means the regulations made under this Act. ("règlements") 1997, c. 27, s. 1; 2002, c. 17, Sched. F, Table; 2015, c. 26, s. 1.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2015, c. 26, s. 1 - 01/01/2016

PART II
DEVELOPMENT CHARGES

DEVELOPMENT CHARGES

Development charges

2 (1) The council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies. 1997, c. 27, s. 2 (1).

What development can be charged for

(2) A development charge may be imposed only for development that requires,

(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 subsection 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 9 of the *Condominium Act, 1998*; or

(g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure. 1997, c. 27, s. 2 (2); 2015, c. 26, s. 2 (1); 2015, c. 28, Sched. 1, s. 148.

Same

(3) An action mentioned in clauses (2) (a) to (g) does not satisfy the requirements of subsection (2) if the only effect of the action is to,

(a) permit the enlargement of an existing dwelling unit; or

(b) permit the creation of up to two additional dwelling units as prescribed, subject to the prescribed restrictions, in prescribed classes of existing residential buildings. 1997, c. 27, s. 2 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 2 (3) of the Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding the following clause: (See: 2016, c. 25, Sched. 1, s. 1)

(c) permit the creation of a second dwelling unit, subject to the prescribed restrictions, in prescribed classes of proposed new residential buildings.

Ineligible services

(4) A development charge by-law may not impose development charges to pay for increased capital costs required because of increased needs for a service that is prescribed as an ineligible service for the purposes of this subsection. 2015, c. 26, s. 2 (2).

Local services

(5) A development charge by-law may not impose development charges with respect to local services described in clauses 59 (2) (a) and (b). 1997, c. 27, s. 2 (5).

Services can be outside the municipality

(6) A development charge by-law may impose development charges with respect to services that are provided outside the municipality. 1997, c. 27, s. 2 (6).

Application of by-law

(7) A development charge by-law may apply to the entire municipality or only part of it. 1997, c. 27, s. 2 (7).

Multiple by-laws allowed

(8) More than one development charge by-law may apply to the same area. 1997, c. 27, s. 2 (8).

Area rating, prescribed areas and services

(9) Despite subsection (7), a development charge by-law dealing with an area that is prescribed for the purposes of this subsection and with a service that is prescribed with respect to the prescribed area for the purposes of this subsection shall apply only to the prescribed area and not to any other part of the municipality. 2015, c. 26, s. 2 (3).

Transition

(10) Subsection (9) does not apply to a development charge by-law that was passed before the relevant area and the relevant service were prescribed for the purposes of that subsection. 2015, c. 26, s. 2 (3).

Area rating, prescribed municipalities, services and criteria

(11) The following rules apply to a municipality that is prescribed for the purposes of this subsection:

1. With respect to a service that is prescribed for the purposes of this subsection, the council shall pass different development charge by-laws for different parts of the municipality.
2. The parts of the municipality to which different development charge by-laws are to apply shall be identified in accordance with the prescribed criteria. 2015, c. 26, s. 2 (3).

Transition

(12) Subsection (11) does not apply to a development charge by-law that was passed before the municipality and the relevant service were prescribed for the purposes of that subsection. 2015, c. 26, s. 2 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 2 (1-3) - 01/01/2016; 2015, c. 28, Sched. 1, s. 148 - 03/12/2015

2016, c. 25, Sched. 1, s. 1 - not in force

Limited exemption

3 No land, except land owned by and used for the purposes of a municipality or a board as defined in subsection 1 (1) of the *Education Act*, is exempt from a development charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. 1997, c. 27, s. 3.

Exemption for industrial development

4 (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with this section. 1997, c. 27, s. 4 (1).

Enlargement 50 per cent or less

(2) If the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero. 1997, c. 27, s. 4 (2).

Enlargement more than 50 per cent

(3) If the gross floor area is enlarged by more than 50 per cent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement. 1997, c. 27, s. 4 (3).

Determination of development charges

5 (1) The following is the method that must be used, in developing a development charge by-law, to determine the development charges that may be imposed:

1. The anticipated amount, type and location of development, for which development charges can be imposed, must be estimated.
2. The increase in the need for service attributable to the anticipated development must be estimated for each service to which the development charge by-law would relate.
3. The estimate under paragraph 2 may include an increase in need only if the council of the municipality has indicated that it intends to ensure that such an increase in need will be met. The determination as to whether a council has indicated such an intention may be governed by the regulations.
4. The estimate under paragraph 2 must not include an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 10-year period immediately preceding the preparation of the background study required under section 10. How the level of service and average level of service is determined may be governed by the regulations. The estimate also must not include an increase in the need for service that relates to a time after the 10-year period immediately following the preparation of the background study unless the service is set out in subsection (5).
5. The increase in the need for service attributable to the anticipated development must be reduced by the part of that increase that can be met using the municipality's excess capacity, other than excess capacity that the council of the municipality has indicated an intention would be paid for by new development. How excess capacity is determined and how to determine whether a council has indicated an intention that excess capacity would be paid for by new development may be governed by the regulations.
6. The increase in the need for service must be reduced by the extent to which an increase in service to meet the increased need would benefit existing development. The extent to which an increase in service would benefit existing development may be governed by the regulations.
7. The capital costs necessary to provide the increased services must be estimated. The capital costs must be reduced by the reductions set out in subsection (2). What is included as a capital cost is set out in subsection (3). How the capital costs are estimated may be governed by the regulations.
8. The capital costs must be reduced by 10 per cent. This paragraph does not apply to services set out in subsection (5).
9. 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).
10. The rules may provide for full or partial exemptions for types of development and for the phasing in of development charges. The rules may also provide for the indexing of development charges based on the prescribed index. 1997, c. 27, s. 5 (1).

Capital costs, deductions

(2) The capital costs, determined under paragraph 7 of subsection (1), must be reduced, in accordance with the regulations, to adjust for capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made in respect of the capital costs. 1997, c. 27, s. 5 (2).

Capital costs, inclusions

(3) The following are capital costs for the purposes of paragraph 7 of subsection (1) if they are incurred or proposed to be incurred by a municipality or a local board directly or by others on behalf of, and as authorized by, a municipality or local board:

1. Costs to acquire land or an interest in land, including a leasehold interest.
2. Costs to improve land.
3. Costs to acquire, lease, construct or improve buildings and structures.
4. Costs to acquire, lease, construct or improve facilities including,
    i. rolling stock with an estimated useful life of seven years or more,
    ii. furniture and equipment, other than computer equipment, and

iii. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*.

5. Costs to undertake studies in connection with any of the matters referred to in paragraphs 1 to 4.
6. Costs of the development charge background study required under section 10.
7. Interest on money borrowed to pay for costs described in paragraphs 1 to 4. 1997, c. 27, s. 5 (3).

Capital costs, leases, etc.

(4) Only the capital component of costs to lease anything or to acquire a leasehold interest is included as a capital cost under subsection (3). 1997, c. 27, s. 5 (4).

Services with no percentage reduction

(5) The services referred to in paragraph 8 of subsection (1), for which there is no percentage reduction, are the following:

1. Water supply services, including distribution and treatment services.
2. Waste water services, including sewers and treatment services.
3. Storm water drainage and control services.
4. Services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be.
5. Electrical power services.
6. Police services.
7. Fire protection services.

7.1 Toronto-York subway extension, as defined in subsection 5.1 (1).

7.2 Transit services other than the Toronto-York subway extension.

8. Other services as prescribed. 1997, c. 27, s. 5 (5); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (1); 2006, c. 33, Sched. H, s. 1; 2015, c. 26, s. 3.

Restriction on rules

(6) The rules developed under paragraph 9 of subsection (1) to determine if a development charge is payable in any particular case and to determine the amount of the charge are subject to the following restrictions:

1. The rules must be such that the total of the development charges that would be imposed upon the anticipated development is less than or equal to the capital costs determined under paragraphs 2 to 8 of subsection (1) for all the services to which the development charge by-law relates.
2. If the rules expressly identify a type of development they must not provide for the type of development to pay development charges that exceed the capital costs, determined under paragraphs 2 to 8 of subsection (1), that arise from the increase in the need for services attributable to the type of development. However, it is not necessary that the amount of the development charge for a particular development be limited to the increase in capital costs, if any, that are attributable to that particular development.
3. If the development charge by-law will exempt a type of development, phase in a development charge, or otherwise provide for a type of development to have a lower development charge than is allowed, the rules for determining development charges may not provide for any resulting shortfall to be made up through higher development charges for other development. 1997, c. 27, s. 5 (6).

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (1) - 01/01/2007; 2006, c. 33, Sched. H, s. 1 - 04/05/2007

2015, c. 26, s. 3 - 01/01/2016

Toronto-York subway extension

Definition

5.1 (1) In this section,

"Toronto-York subway extension" means an extension of the subway service located in the City of Toronto beyond its terminus at Downsview subway station further north in the City of Toronto and into The Regional Municipality of York, and works and equipment directly related to that extension. 2006, c. 33, Sched. H, s. 2.

Provision does not apply

(2) Paragraph 4 of subsection 5 (1) does not apply in determining the estimate for the increase in the need for the Toronto-York subway extension. 2006, c. 33, Sched. H, s. 2.

Applicable restriction

(3) For the purposes of section 5, the estimate for the increase in the need for the Toronto-York subway extension shall not exceed the planned level of service over the 10-year period immediately following the preparation of the background study required under section 10. 2006, c. 33, Sched. H, s. 2.

Regulations

(4) The method of estimating the planned level of service for the Toronto-York subway extension and the criteria to be used in doing so may be prescribed by regulation. 2006, c. 33, Sched. H, s. 2.

Section Amendments with date in force (d/m/y)

2006, c. 33, Sched. H, s. 2 - 04/05/2007

Prescribed services

Definition

5.2 (1) In this section,

"prescribed service" means a service that is prescribed for the purposes of this section. 2015, c. 26, s. 4.

Provision does not apply

(2) Paragraph 4 of subsection 5 (1) does not apply in determining the estimate for the increase in the need for a prescribed service. 2015, c. 26, s. 4.

Applicable restriction

(3) For the purposes of section 5, the estimate for the increase in the need for a prescribed service shall not exceed the planned level of service over the 10-year period immediately following the preparation of the background study required under section 10. 2015, c. 26, s. 4.

Regulations

(4) The method of estimating the planned level of service for a prescribed service and the criteria to be used in doing so may be prescribed. 2015, c. 26, s. 4.

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 4 - 01/01/2016

Contents of by-law

6 A development charge by-law must set out the following:

1. The rules developed under paragraph 9 of subsection 5 (1) for determining if a development charge is payable in any particular case and for determining the amount of the charge.
2. An express statement indicating how, if at all, the rules provide for exemptions, for the phasing in of development charges and for the indexing of development charges.
3. How the rules referred to in paragraph 1 apply to the redevelopment of land.
4. The area of the municipality to which the by-law applies. 1997, c. 27, s. 6.

Categories of services

7 (1) A development charge by-law may provide for services to be grouped into a category of services. However, services for which there is a 10 per cent reduction under paragraph 8 of subsection 5 (1) may not be grouped with services for which there is no such reduction. 1997, c. 27, s. 7 (1).

Effect of categories

(2) A category of services shall be deemed to be a single service for the purposes of this Act in relation to reserve funds, the use of money from reserve funds and credits. 1997, c. 27, s. 7 (2).

Commencement of development charge by-law

8 A development charge by-law or a by-law amending it comes into force on the day it is passed or the day specified in the by-law, whichever is later. 1997, c. 27, s. 8.

Duration of development charge by-law

9 (1) Unless it expires or is repealed earlier, a development charge by-law expires five years after the day it comes into force. 1997, c. 27, s. 9 (1).

Council can pass new by-law

(2) Subsection (1) does not prevent a council from passing a new development charge by-law. 1997, c. 27, s. 9 (2).

PROCESS BEFORE PASSING BY-LAW

Background study

10 (1) Before passing a development charge by-law, the council shall complete a development charge background study. 1997, c. 27, s. 10 (1).

Same

(2) The development charge background study shall include,

(a) the estimates under paragraph 1 of subsection 5 (1) of the anticipated amount, type and location of development;

(b) the calculations under paragraphs 2 to 8 of subsection 5 (1) for each service to which the development charge by-law would relate;

(c) an examination, for each service to which the development charge by-law would relate, of the long term capital and operating costs for capital infrastructure required for the service;

(c.1) unless subsection 2 (9) or (11) applies, consideration of the use of more than one development charge by-law to reflect different needs for services in different areas;

(c.2) an asset management plan prepared in accordance with subsection (3); and

(d) such other information as may be prescribed. 1997, c. 27, s. 10 (2); 2015, c. 26, s. 5 (1).

Asset management plan

(3) The asset management plan shall,

(a) deal with all assets whose capital costs are proposed to be funded under the development charge by-law;

(b) demonstrate that all the assets mentioned in clause (a) are financially sustainable over their full life cycle;

(c) contain any other information that is prescribed; and

(d) be prepared in the prescribed manner. 2015, c. 26, s. 5 (2).

Background study to be made available

(4) The council shall ensure that a development charge background study is made available to the public at least 60 days prior to the passing of the development charge by-law and until the by-law expires or is repealed by posting the study on the website of the municipality or, if there is no such website, in the municipal office. 2015, c. 26, s. 5 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 5 (1-3) - 01/01/2016

By-law within one year after study

11 A development charge by-law may only be passed within the one-year period following the completion of the development charge background study. 1997, c. 27, s. 11.

Public meeting before by-law passed

12 (1) Before passing a development charge by-law, the council shall,

(a) hold at least one public meeting;

(b) give at least 20-days notice of the meeting or meetings in accordance with the regulations; and

(c) ensure that the proposed by-law and the background study are made available to the public at least two weeks prior to the meeting or, if there is more than one meeting, prior to the first meeting. 1997, c. 27, s. 12 (1).

Making representations

(2) Any person who attends a meeting under this section may make representations relating to the proposed by-law. 1997, c. 27, s. 12 (2).

Council determination is final

(3) If a proposed by-law is changed following a meeting under this section, the council shall determine whether a further meeting under this section is necessary and such a determination is final and not subject to review by a court or the Ontario Municipal Board. 1997, c. 27, s. 12 (3).

APPEAL OF BY-LAW

Notice of by-law and time for appeal

13 (1) The clerk of a municipality that has passed a development charge by-law shall give written notice of the passing of the by-law, and of the last day for appealing the by-law, which shall be the day that is 40 days after the day the by-law is passed. 1997, c. 27, s. 13 (1).

Requirements of notice

(2) Notices required under this section must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations. 1997, c. 27, s. 13 (2).

Same

(3) Every notice required under this section must be given not later than 20 days after the day the by-law is passed. 1997, c. 27, s. 13 (3).

When notice given

(4) A notice required under this section shall be deemed to have been given,

(a) if the notice is by publication in a newspaper, on the day that the publication occurs;

(b) if the notice is given by mail, on the day that the notice is mailed. 1997, c. 27, s. 13 (4).

Appeal of by-law after passed

14 Any person or organization may appeal a development charge by-law to the Ontario Municipal Board by filing with the clerk of the municipality on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection. 1997, c. 27, s. 14.

Clerk's duties on appeal

15 (1) If the clerk of the municipality receives a notice of appeal on or before the last day for appealing a development charge by-law, the clerk shall compile a record that includes,

(a) a copy of the by-law certified by the clerk;

(b) a copy of the development charge background study;

(c) an affidavit or declaration certifying that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act; and

(d) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed. 1997, c. 27, s. 15 (1).

Same

(2) The clerk shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. 1997, c. 27, s. 15 (2).

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the clerk of a municipality that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 1997, c. 27, s. 15 (3).

OMB hearing of appeal

16 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal of a development charge by-law forwarded by the clerk of a municipality. 1997, c. 27, s. 16 (1).

Who to get notice

(2) The Ontario Municipal Board shall determine who shall be given notice of the hearing and in what manner. 1997, c. 27, s. 16 (2).

Powers of OMB

(3) After the hearing, the Ontario Municipal Board may,

(a) dismiss the appeal in whole or in part;

(b) order the council of the municipality to repeal or amend the by-law in accordance with the Board's order;

(c) repeal or amend the by-law in such manner as the Board may determine. 1997, c. 27, s. 16 (3).

Limitation on powers

(4) The Ontario Municipal Board may not amend or order the amendment of a by-law so as to,

(a) increase the amount of a development charge that will be payable in any particular case;

(b) remove, or reduce the scope of, an exemption;

(c) change a provision for the phasing in of development charges in such a way as to make a charge, or part of a charge, payable earlier;

(d) change the date the by-law will expire. 1997, c. 27, s. 16 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 1997, c. 27, s. 16 (5).

When OMB ordered repeals, amendments effective

17 The repeal or amendment of a development charge by-law by the Ontario Municipal Board, or by the council of a municipality pursuant to an order of the Ontario Municipal Board, shall be deemed to have come into force on the day the by-law came into force. 1997, c. 27, s. 17.

Refunds, if OMB repeals by-law, etc.

18 (1) If the Ontario Municipal Board repeals or amends a development charge by-law or orders the council of a municipality to repeal or amend a development charge by-law, the municipality shall refund,

(a) in the case of a repeal, any development charge paid under the by-law;

(b) in the case of an amendment, the difference between any development charge paid under the by-law and the development charge that would have been payable under the by-law as amended. 1997, c. 27, s. 18 (1).

When refund due

(2) If a municipality is required to make a refund under subsection (1), it shall do so,

(a) if the Ontario Municipal Board repeals or amends the by-law, within 30 days after the Board's order;

(b) if the Ontario Municipal Board orders the council of the municipality to repeal or amend the by-law, within 30 days after the repeal or amendment by the council. 1997, c. 27, s. 18 (2).

Interest

(3) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to the municipality to the time it is refunded. 1997, c. 27, s. 18 (3).

PROCESS AND APPEALS FOR AMENDMENTS TO BY-LAWS

Application of other sections to amendments

19 (1) Sections 10 to 18 apply, with necessary modifications, to an amendment to a development charge by-law other than an amendment by, or pursuant to an order of, the Ontario Municipal Board. 1997, c. 27, s. 19 (1).

Limitation of OMB powers

(2) In an appeal of an amendment to a development charge by-law, the Ontario Municipal Board may exercise its powers only in relation to the amendment. 1997, c. 27, s. 19 (2).

COMPLAINTS ABOUT DEVELOPMENT CHARGES

Complaint to council of municipality

20 (1) A person required to pay a development charge, or the person's agent, may complain to the council of the municipality imposing the development charge that,

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or

(c) there was an error in the application of the development charge by-law. 1997, c. 27, s. 20 (1).

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable. 1997, c. 27, s. 20 (2).

Form of complaint

(3) The complaint must be in writing, must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint. 1997, c. 27, s. 20 (3).

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing. 1997, c. 27, s. 20 (4).

Notice of hearing

(5) The clerk of the municipality shall mail a notice of the hearing to the complainant at least 14 days before the hearing. 1997, c. 27, s. 20 (5).

Council's powers

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint. 1997, c. 27, s. 20 (6).

Notice of decision and time for appeal

21 (1) The clerk of the municipality shall mail to the complainant a notice of the council's decision, and of the last day for appealing the decision, which shall be the day that is 40 days after the day the decision is made. 1997, c. 27, s. 21 (1).

Requirements of notice

(2) The notice required under this section must be mailed not later than 20 days after the day the council's decision is made. 1997, c. 27, s. 21 (2).

Appeal of council's decision

22 (1) A complainant may appeal the decision of the council of the municipality to the Ontario Municipal Board by filing with the clerk of the municipality, on or before the last day for appealing the decision, a notice of appeal setting out the reasons for the appeal. 1997, c. 27, s. 22 (1).

Additional ground

(2) A complainant may also appeal to the Ontario Municipal Board if the council of the municipality does not deal with the complaint within 60 days after the complaint is made by filing with the clerk of the municipality a notice of appeal. 1997, c. 27, s. 22 (2).

Clerk's duties on appeal

23 (1) If a notice of appeal under subsection 22 (1) is filed with the clerk of the municipality on or before the last day for appealing a decision, the clerk shall compile a record that includes,

(a) a copy of the development charge by-law certified by the clerk;

(b) the original or a true copy of the complaint and all written submissions and material received in support of the complaint;

(c) a copy of the council's decision certified by the clerk; and

(d) an affidavit or declaration certifying that notice of the council's decision and of the last day for appealing it was given in accordance with this Act. 1997, c. 27, s. 23 (1).

Same

(2) If a notice of appeal under subsection 22 (2) is filed with the clerk of the municipality, the clerk shall compile a record that includes,

(a) a copy of the development charge by-law certified by the clerk; and

(b) the original or a true copy of the complaint and all written submissions and material received in support of the complaint. 1997, c. 27, s. 23 (2).

Same

(3) The clerk shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the notice is received and shall provide such other information and material that the Board may require in respect of the appeal. 1997, c. 27, s. 23 (3).

OMB hearing of appeal

24 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal relating to a complaint forwarded by the clerk of a municipality. 1997, c. 27, s. 24 (1).

Parties

(2) The parties to the appeal are the appellant and the municipality. 1997, c. 27, s. 24 (2).

Notice to parties

(3) The Ontario Municipal Board shall give notice of the hearing to the parties. 1997, c. 27, s. 24 (3).

Powers of OMB

(4) After the hearing, the Ontario Municipal Board may do anything that could have been done by the council of the municipality under subsection 20 (6). 1997, c. 27, s. 24 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 1997, c. 27, s. 24 (5).

Refund if development charge reduced

25 (1) If a development charge that has already been paid is reduced by the council of a municipality under section 20 or by the Ontario Municipal Board under section 24, the municipality shall immediately refund the overpayment. 1997, c. 27, s. 25 (1).

Interest

(2) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to the municipality to the time it is refunded. 1997, c. 27, s. 25 (2).

COLLECTION OF DEVELOPMENT CHARGES

When development charge is payable

26 (1) A development charge is payable for a development upon a building permit being issued for the development unless the development charge by-law provides otherwise under subsection (2). 1997, c. 27, s. 26 (1).

Multiple building permits

(1.1) If a development consists of one building that requires more than one building permit, the development charge for the development is payable upon the first building permit being issued. 2015, c. 26, s. 6.

Multiple phases

(1.2) If a development consists of two or more phases that will not be constructed concurrently and are anticipated to be completed in different years, each phase of the development is deemed to be a separate development for the purposes of this section. 2015, c. 26, s. 6.

Special case, approval of plan of subdivision

(2) A municipality may, in a development charge by-law, provide that a development charge for services set out in paragraphs 1, 2, 3, 4 or 5 of subsection 5 (5) for development that requires approval of a plan of subdivision under section 51 of the *Planning Act* or a consent under section 53 of the *Planning Act* and for which a subdivision agreement or consent agreement is entered into, be payable immediately upon the parties entering into the agreement. 1997, c. 27, s. 26 (2).

Agreement prevails

(3) This section does not apply in cases where there is an agreement under section 27. 1997, c. 27, s. 26 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 6 - 01/01/2016

Agreement, early or late payment

27 (1) A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. 1997, c. 27, s. 27 (1).

Amount of charge payable

(2) The total amount of a development charge payable under an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

(a) the time the development charge or any part of it is payable under the agreement;

(b) the time the development charge would have been payable in the absence of the agreement. 1997, c. 27, s. 27 (2).

Interest on late payments

(3) An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable. 1997, c. 27, s. 27 (3).

Withholding of building permit until charge paid

28 Despite any other Act, a municipality is not required to issue a building permit for development to which a development charge applies unless the development charge has been paid. 1997, c. 27, s. 28.

Upper-tier municipalities, development charges

29 If a development charge is imposed by an upper-tier municipality on a development in an area municipality, the following apply:

1. The treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is payable.
2. The treasurer of the area municipality shall collect the charge when it is payable and shall, unless otherwise agreed by the upper-tier municipality, pay the charge to the treasurer of the upper-tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality.
3. If the charge is collected by the upper-tier municipality, the treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality that the charge has been collected. 1997, c. 27, s. 29.

If upper-tier issues building permits

30 If an upper-tier municipality issues building permits, the treasurer of each area municipality within the upper-tier municipality shall, when all development charges are paid with respect to a development in the area municipality, certify to the chief building official of the upper-tier municipality that those charges have been paid. 1997, c. 27, s. 30; 1997, c. 31, s. 146.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 146 (1) - 01/01/1998

Agreement, upper-tier to collect charges

31 (1) If building permits are issued by an upper-tier municipality, the upper-tier municipality may agree with an area municipality to collect all the development charges on development in the area municipality. 1997, c. 27, s. 31 (1); 1997, c. 31, s. 146.

Sections 29 and 30

(2) If an agreement is made under this section, sections 29 and 30 do not apply with respect to development in the area municipality. 1997, c. 27, s. 31 (2).

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 146 (1) - 01/01/1998

Unpaid charges added to taxes

32 (1) If a development charge or any part of it remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes. 1997, c. 27, s. 32 (1).

Treasurer certifies unpaid amount

(2) If a development charge or any part of it imposed by an upper-tier municipality remains unpaid after it is payable, the treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality in which the land is located the amount that is unpaid. 1997, c. 27, s. 32 (2).

RESERVE FUNDS AND THE USE OF DEVELOPMENT CHARGES

Reserve funds

33 A municipality that has passed a development charge by-law shall establish a separate reserve fund for each service to which the development charge relates. 1997, c. 27, s. 33.

Development charges paid into reserve funds

34 The municipality shall pay each development charge it collects into the reserve fund or funds to which the charge relates. 1997, c. 27, s. 34.

Use of reserve funds

35 The money in a reserve fund established for a service may be spent only for capital costs determined under paragraphs 2 to 8 of subsection 5 (1). 1997, c. 27, s. 35.

Municipality may borrow from reserve fund

36 Despite section 35, a municipality may borrow money from a reserve fund but if it does so, the municipality shall repay the amount used plus interest at a rate not less than the prescribed minimum interest rate. 1997, c. 27, s. 36.

Exclusions

37 (1) Subsections 417 (2), (3) and (4) and 418 (3) and (4) of the *Municipal Act, 2001* and any equivalent provisions of, or made under, the *City of Toronto Act, 2006* do not apply to development charges collected by a municipality. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 37 (1) of the Act is amended by striking out "Subsections 417 (2), (3) and (4) and 418 (3) and (4) of the *Municipal Act, 2001*" at the beginning and substituting "Subsections 418 (3) and (4) and 418.1 (14) and (15) of the *Municipal Act, 2001*". (See: 2017, c. 10, Sched. 4, s. 2)

Limitation

(2) Development charges may not be advanced by a municipality to its capital account as interim financing of capital undertakings of the municipality, except for those capital undertakings for which the development charges may be spent under this Act. 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (2) - 01/01/2007

2017, c. 10, Sched. 4, s. 2 - not in force

CREDITS

Credits for work

38 (1) If a municipality agrees to allow a person to perform work that relates to a service to which a development charge by-law relates, the municipality shall give the person a credit towards the development charge in accordance with the agreement. 1997, c. 27, s. 38 (1).

Amount of credits

(2) The amount of the credit is the reasonable cost of doing the work as agreed by the municipality and the person who is to be given the credit. 1997, c. 27, s. 38 (2).

Limitation: above average level of service

(3) No credit may be given for any part of the cost of work that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5 (1). 1997, c. 27, s. 38 (3).

Credit can be given before work completed

(4) A credit, or any part of it, may be given before the work for which the credit is given is completed. 1997, c. 27, s. 38 (4).

Credit relates to service for which work done

39 (1) A credit given in exchange for work done is a credit only in relation to the service to which the work relates. 1997, c. 27, s. 39 (1).

Credits can be divided among services

(2) If the work relates to more than one service, the credit for the work must be allocated, in the manner agreed by the municipality, among the services to which the work relates. 1997, c. 27, s. 39 (2).

Exception by agreement

(3) The municipality may agree that a credit given be in relation to another service to which the development charge by-law relates. 1997, c. 27, s. 39 (3).

Changes after credit given

(4) The municipality may agree to change a credit so that it relates to another service to which the development charge by-law relates. 1997, c. 27, s. 39 (4).

Transfer of credits

40 (1) A credit may not be transferred unless,

(a) the holder and person to whom the credit is to be transferred have agreed in writing to the transfer; and

(b) the municipality has agreed to the transfer, either in the agreement under which the holder of the credit was given the credit or subsequently. 1997, c. 27, s. 40 (1).

Transfer is by municipality

(2) The transfer of a credit is not effective until the municipality transfers it. 1997, c. 27, s. 40 (2).

When municipality must transfer credit

(3) A municipality shall transfer a credit upon being requested to do so by the holder, the person to whom the credit is to be transferred or the agent of either of them and being given proof that the conditions in subsection (1) are satisfied. 1997, c. 27, s. 40 (3).

Use of a credit

41 (1) A credit that relates to a service may be used only with respect to that part of a development charge that relates to the service. 1997, c. 27, s. 41 (1).

Use under another development charge by-law

(2) A credit given towards a development charge under a development charge by-law may be used for a development charge under another development charge by-law only if that other development charge by-law so provides. 1997, c. 27, s. 41 (2).

Used by holder or agent

(3) A credit may be used only by the holder or the holder's agent. 1997, c. 27, s. 41 (3).

MISCELLANEOUS

Registration of by-law

42 A municipality that has passed a development charge by-law may register the by-law or a certified copy of it against the land to which it applies. 1997, c. 27, s. 42.

Statement of treasurer

43 (1) The treasurer of a municipality shall each year on or before such date as the council of the municipality may direct, give the council a financial statement relating to development charge by-laws and reserve funds established under section 33. 1997, c. 27, s. 43 (1).

Requirements

(2) A statement must include, for the preceding year,

(a) statements of the opening and closing balances of the reserve funds and of the transactions relating to the funds;

(b) statements identifying,

(i) all assets whose capital costs were funded under a development charge by-law during the year,

(ii) for each asset mentioned in subclause (i), the manner in which any capital cost not funded under the by-law was or will be funded;

(c) a statement as to compliance with subsection 59.1 (1); and

(d) any other information that is prescribed. 2015, c. 26, s. 7 (1).

Statement available to public

(2.1) The council shall ensure that the statement is made available to the public. 2015, c. 26, s. 7 (1).

Copy to Minister

(3) The treasurer shall give a copy of a statement to the Minister of Municipal Affairs and Housing on request. 1997, c. 27, s. 43 (3); 2015, c. 26, s. 7 (2).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 7 (1, 2) - 01/01/2016

PART III
FRONT-ENDING AGREEMENTS

FRONT-ENDING AGREEMENTS

Front-ending agreement

44 (1) A municipality in which a development charge by-law is in force may enter into an agreement, called a front-ending agreement, that,

(a) applies with respect to work, done before or after the agreement is entered into,

(i) that relates to the provision of services for which there will be an increased need as a result of development, and

(ii) that will benefit an area of the municipality, defined in the agreement, to which the development charge by-law applies;

(b) provides for the costs of the work to be borne by one or more of the parties to the agreement; and

(c) provides for persons who, in the future, develop land within the area defined in the agreement to pay an amount to reimburse some part of the costs of the work. 1997, c. 27, s. 44 (1).

Restrictions on services covered

(2) The services to which the work relates must be services to which the development charge by-law relates and that are set out in paragraph 1, 2, 3, 4 or 5 of subsection 5 (5). 1997, c. 27, s. 44 (2).

Reimbursement restriction

(3) A front-ending agreement may provide for a person who is not a party to the agreement to pay an amount only if the person develops land and a development charge could be imposed for the development under subsections 2 (2) and (3). 1997, c. 27, s. 44 (3).

Exemption for industrial development

(4) Section 4 applies, with necessary modifications, to amounts a person who is not a party to a front-ending agreement must pay under the agreement. 1997, c. 27, s. 44 (4).

"Tiering" of front end costs

(5) A front-ending agreement may provide for persons who reimburse part of the costs of the work borne by the parties to be themselves reimbursed by persons who later develop land within the area defined in the agreement. 1997, c. 27, s. 44 (5).

Person can not be reimbursed for their share

(6) A front-ending agreement must not provide for a person to be reimbursed for any part of their non-reimbursable share of the costs of the work as determined under the agreement. 1997, c. 27, s. 44 (6).

Inclusions in cost of work

(7) A front-ending agreement may provide for the following to be included in the cost of the work:

1. The reasonable costs of administering the agreement.
2. The reasonable costs of consultants and studies required to prepare the agreement. 1997, c. 27, s. 44 (7).

Contents of agreements

45 (1) A front-ending agreement must contain the following:

1. A description of the work to be done, a definition of the area of the municipality that will benefit from the work and the estimated cost of the work.
2. The proportion of the cost of the work that will be borne by each party to the agreement.
3. The method for determining the part of the costs of the work that will be reimbursed by the persons who, in the future, develop land within the area defined in the agreement.
4. The amount, or a method for determining the amount, of the non-reimbursable share of the costs of the work for the parties and for persons who reimburse parts of the costs of the work.
5. A description of the way in which amounts collected from persons to reimburse the costs of the work will be allocated. 1997, c. 27, s. 45 (1).

Other provisions allowed

(2) A front-ending agreement may contain other provisions in addition to those required under subsection (1). 1997, c. 27, s. 45 (2).

OBJECTIONS TO AGREEMENTS

Notice of agreement and time for objections

46 (1) The clerk of a municipality that has entered into a front-ending agreement shall give written notice of an agreement and of the last day for filing an objection to the agreement, which shall be the day that is 40 days after the day the agreement is made. 1997, c. 27, s. 46 (1).

Requirements of notice

(2) Notice must be given, not later than 20 days after the day the agreement is made,

(a) by mailing a notice to every owner of land within the area defined in the front-ending agreement; or

(b) by publishing a notice in a newspaper having general circulation in the municipality. 1997, c. 27, s. 46 (2).

Same

(3) A notice required under this section must explain the nature and purpose of the agreement and must indicate that the agreement can be viewed in the office of the clerk of the municipality during normal office hours. 1997, c. 27, s. 46 (3).

Agreement to be available

(4) The clerk of the municipality shall ensure that the agreement can be viewed as set out in the notice. 1997, c. 27, s. 46 (4).

Objection to agreement

47 Any owner of land within the area defined in the front-ending agreement may object to a front-ending agreement by filing with the clerk of the municipality on or before the last day for objecting to the agreement, a notice of objection setting out the objection to the agreement and the reasons supporting the objection. 1997, c. 27, s. 47.

Clerk's duties if objection

48 (1) If the clerk of the municipality receives a notice of objection on or before the last day for filing an objection, the clerk shall compile a record that includes,

(a) a copy, certified by the clerk, of every development charge by-law that applies to the area defined in the front-ending agreement;

(b) a copy of the front-ending agreement certified by the clerk;

(c) an affidavit or declaration certifying that notice of the front-ending agreement and of the last day for filing an objection to it was given in accordance with this Act. 1997, c. 27, s. 48 (1).

Same

(2) The clerk shall forward a copy of the notice of objection and the record to the secretary of the Ontario Municipal Board within 30 days after the last day for filing an objection and shall provide such other information or material as the Board may require in respect of the objection. 1997, c. 27, s. 48 (2).

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the clerk of a municipality that notice of the front-ending agreement and of the last day for filing an objection to it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 1997, c. 27, s. 48 (3).

OMB hearing of objection

49 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of objection to a front-ending agreement forwarded by the clerk of a municipality. 1997, c. 27, s. 49 (1).

Powers of OMB

(2) After the hearing, the Ontario Municipal Board may,

(a) dismiss the objection in whole or in part;

(b) terminate the agreement;

(c) order that the agreement is terminated unless the parties amend it in accordance with the Board's order. 1997, c. 27, s. 49 (2).

Same

(3) If the Ontario Municipal Board terminates the agreement or makes an order under clause (2) (c), the Board may order the municipality to refund any amount paid under the agreement in excess of,

(a) if the agreement is terminated, what would have been payable under the development charge by-law; or

(b) if the agreement is amended, what would have been payable under the amended agreement. 1997, c. 27, s. 49 (3).

Effective date of amendment

(4) An amendment in accordance with an order under clause (2) (c) shall be deemed to have come into force on the day the agreement comes into force. 1997, c. 27, s. 49 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the agreement set out in the notice of objection is insufficient, dismiss the objection without holding a full hearing after notifying the person filing the objection and giving that person an opportunity to make representations as to the merits of the objection. 1997, c. 27, s. 49 (5).

Objections to amendments

50 Sections 46 to 49 apply, with necessary modifications, to an amendment to a front-ending agreement other than an amendment pursuant to an order of the Ontario Municipal Board. 1997, c. 27, s. 50.

MISCELLANEOUS

When agreements in force

51 (1) A front-ending agreement comes into force on the day the agreement is made. 1997, c. 27, s. 51 (1).

If agreement terminated

(2) A front-ending agreement that is terminated by the Ontario Municipal Board shall be deemed to have never come into force. 1997, c. 27, s. 51 (2).

Application to amendments

(3) This section applies, with necessary modifications, with respect to amendments to front-ending agreements. 1997, c. 27, s. 51 (3).

Non-parties bound by agreement

52 (1) A person who develops land within the area defined in a front-ending agreement shall pay any amount the agreement provides under clause 44 (1) (c). 1997, c. 27, s. 52 (1).

When amounts payable

(2) An amount that is payable under subsection (1) is payable upon a building permit being issued for the development unless the front-ending agreement provides for the amount to be payable on a later day or on an earlier day as allowed under subsection (3). 1997, c. 27, s. 52 (2).

Same

(3) A front-ending agreement may provide that an amount payable under subsection (1) for development that requires approval of a plan of subdivision under section 51 of the *Planning Act* or a consent under section 53 of the *Planning Act* and for which a subdivision agreement or consent agreement is entered into, be payable immediately upon the parties entering into the subdivision or consent agreement. 1997, c. 27, s. 52 (3).

Amounts paid to municipality

(4) Amounts paid under subsection (1) shall be paid to the municipality. 1997, c. 27, s. 52 (4).

Building permits withheld until amounts paid

53 If an amount is payable under a front-ending agreement by a person who develops land, no municipality shall issue a building permit for the development until the amount is paid. 1997, c. 27, s. 53.

Use of money received under an agreement

54 (1) A municipality that receives money under a front-ending agreement shall place the money in a special account. 1997, c. 27, s. 54 (1).

Use of money in special account

(2) The money in the special account shall be used, in accordance with the agreement, only for the following purposes:

1. To pay for work provided for under the agreement.
2. To reimburse those who, under the agreement, have a right to be reimbursed. 1997, c. 27, s. 54 (2).

Return of excess funds

(3) Despite subsection (2), if the municipality receives money from parties to the agreement to pay for work provided under the agreement, the municipality shall, if the agreement so provides, return to the parties any amounts that are not needed to pay for the work. 1997, c. 27, s. 54 (3).

Money held until objections disposed of

(4) If an objection to a front-ending agreement is made, the municipality shall retain any money received from persons who are not parties to the agreement until all the objections to the agreement are disposed of by the Ontario Municipal Board. If the Board makes an order that the agreement be terminated unless the parties amend it in accordance with the Board's order the municipality shall retain the money until the agreement is either terminated or amended. 1997, c. 27, s. 54 (4).

Application to amendments

(5) Subsection (4) applies with necessary modifications with respect to amendments to front-ending agreements. 1997, c. 27, s. 54 (5).

Credits

55 (1) A person is entitled to be given a credit towards a development charge for the amount of their non-reimbursable share of the costs of work under a front-ending agreement. 1997, c. 27, s. 55 (1).

Restriction on the amount

(2) If the work would result in a level of service that exceeds the average level of the service in the 10-year period immediately preceding the preparation of the background study for the development charge by-law, the amount of the credit must be reduced in the same proportion that the costs of the work that relate to a level of service that exceeds that average level of service bear to the costs of the work. Any regulations relating to the level of service and average level of service for the purposes of paragraph 4 of subsection 5 (1) also apply with necessary modifications for the purposes of this subsection. 1997, c. 27, s. 55 (2).

Credits are treated like s. 38 credits

(3) Credits under this section shall be treated, for the purposes of this Act, as though they were credits under section 38. 1997, c. 27, s. 55 (3).

Registration of agreement

56 A party to a front-ending agreement may register the agreement or a certified copy of it against the land to which it applies. 1997, c. 27, s. 56.

Notice to other tier

57 (1) An upper-tier municipality that is a party to a front-ending agreement shall, within 20 days after the agreement is made or amended, give a copy of the agreement or amendment to any area municipality that is not a party to the agreement and whose territory includes any part of the area defined in the agreement. 1997, c. 27, s. 57 (1).

Same

(2) An area municipality that is a party to a front-ending agreement shall, within 20 days after the agreement is made or amended, give a copy of the agreement or amendment to the upper-tier municipality that the area municipality is part of, if the upper-tier municipality is not a party to the agreement. 1997, c. 27, s. 57 (2).

PART IV
GENERAL

58 REPEALED: 2009, c. 33, Sched. 2, s. 24.

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 2, s. 24 - 15/12/2009

***Planning Act*, ss. 51, 53**

59 (1) A municipality shall not, by way of a condition or agreement under section 51 or 53 of the *Planning Act*, impose directly or indirectly a charge related to a development or a requirement to construct a service related to development except as allowed in subsection (2). 1997, c. 27, s. 59 (1).

Exception for local services

(2) A condition or agreement referred to in subsection (1) may provide for,

(a) local services, related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the *Planning Act*;

(b) local services to be installed or paid for by the owner as a condition of approval under section 53 of the *Planning Act*. 1997, c. 27, s. 59 (2).

Limitation

(3) This section does not prevent a condition or agreement under section 51 or 53 of the *Planning Act* from requiring that services be in place before development begins. 1997, c. 27, s. 59 (3).

Notice of development charges at transfer

(4) In giving approval to a draft plan of subdivision under subsection 51 (31) of the *Planning Act*, the approval authority shall use its power to impose conditions under clause 51 (25) (d) of the *Planning Act* to ensure that the persons who first purchase the subdivided land after the final approval of the plan of subdivision are informed, at the time the land is transferred, of all the development charges related to the development. 1997, c. 27, s. 59 (4).

Exception, old agreements

(5) This section does not affect a condition or agreement imposed or made under section 51 or 53 of the *Planning Act* that was in effect on November 23, 1991. 1997, c. 27, s. 59 (5).

No additional levies

59.1 (1) A municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development, except as permitted by this Act or another Act. 2015, c. 26, s. 8.

Prescribed exceptions

(2) Subsection (1) does not apply with respect to,

(a) a prescribed class of developments;

(b) a prescribed class of services related to developments; or

(c) a prescribed Act or a prescribed provision of an Act. 2015, c. 26, s. 8.

Exception, transition

(3) Subsection (1) does not affect a charge that is imposed before the day section 8 of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 8.

Power of investigation

(4) The Minister of Municipal Affairs and Housing may, at any time, investigate whether a municipality has complied with subsection (1). 2015, c. 26, s. 8.

Same

(5) For the purposes of an investigation under subsection (4), the Minister may,

(a) inquire into any or all of the municipality's affairs, financial and otherwise;

(b) require the production of any records and documents that may relate to the municipality's affairs;

(c) inspect, examine, audit and copy anything required to be produced under clause (b);

(d) require any officer of the municipality and any other person to appear before the Minister and give evidence on oath about the municipality's affairs; and

(e) hold any hearings in respect of the municipality's affairs as the Minister considers necessary or expedient. 2015, c. 26, s. 8.

Application of *Public Inquiries Act, 2009*

(6) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation under subsection (4). 2015, c. 26, s. 8.

Cost of investigation

(7) The Minister may require the municipality to pay all or part of the cost of an investigation under subsection (4). 2015, c. 26, s. 8.

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 8 - 01/01/2016

Regulations

60 (1) The Lieutenant Governor in Council may make regulations,

(a) defining or clarifying "gross floor area" and "existing industrial building" for the purposes of this Act;

(b) for the purposes of clause 2 (3) (b), prescribing classes of residential buildings, prescribing the maximum number of additional dwelling units, not exceeding two, for buildings in such classes, prescribing restrictions and governing what constitutes a separate building;

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 60 (1) of the Act is amended by adding the following clause: (See: 2016, c. 25, Sched. 1, s. 2)

(b.1) for the purposes of clause 2 (3) (c), prescribing classes of residential buildings, prescribing restrictions and governing what constitutes a separate building;

(c) prescribing services as ineligible services for the purposes of subsection 2 (4);

(d) prescribing areas, and prescribing services with respect to prescribed areas, for the purposes of subsection 2 (9);

(d.1) prescribing municipalities, services and criteria for the purposes of subsection 2 (11);

(e) governing the determination as to whether the council of a municipality has indicated, for the purposes of paragraph 3 of subsection 5 (1), an intention to ensure that an increase in need for service will be met;

(f) governing the determination of the level of service and the average level of service for the purposes of paragraph 4 of subsection 5 (1);

(g) for the purposes of paragraph 5 of subsection 5 (1), governing the determination of excess capacity and whether a council has indicated an intention that excess capacity would be paid for by new development;

(h) governing the determination of the extent to which an increase in service would benefit existing development for the purposes of paragraph 6 of subsection 5 (1);

(i) governing the estimation of the capital costs for the purposes of paragraph 7 of subsection 5 (1);

(j) prescribing an index for the purpose of paragraph 10 of subsection 5 (1);

(k) governing reductions, under subsection 5 (2), to adjust for capital grants, subsidies and other contributions, including governing what are capital grants, subsidies and other contributions for the purposes of that subsection and how much the reduction shall be for such grants, subsidies and other contributions;

(l) clarifying or defining terms used in paragraphs 1 to 7 of subsection 5 (5);

(m) prescribing, for the purposes of paragraph 8 of subsection 5 (5), services for which there is no percentage reduction;

(m.1) further clarifying or defining the term "Toronto-York subway extension" in subsection 5.1 (1);

(m.2) prescribing the method and criteria to be used to estimate the planned level of service for the Toronto-York subway extension;

(m.3) prescribing a service, other than the Toronto-York subway extension, as a service for the purposes of section 5.2;

(m.4) prescribing the method and criteria to be used to estimate the planned level of service for a service that is prescribed for the purposes of section 5.2;

(n) prescribing information that must be included in a background study under section 10;

(o) defining or clarifying "operating costs" for the purposes of clause 10 (2) (c);

(o.1) prescribing information for the purposes of clause 10 (3) (c);

(o.2) prescribing the manner in which an asset management plan is to be prepared for the purposes of clause 10 (3) (d);

(p) for the purposes of clause 12 (1) (b), governing notice of meetings;

(q) for the purposes of subsection 13 (2), governing notices of the passing of development charge by-laws;

(r) requiring municipalities to keep records in respect of reserve funds and governing such records;

(s) prescribing the minimum interest rate or a method for determining the minimum interest rate that municipalities shall pay under subsections 18 (3) and 25 (2) and section 36;

(t) prescribing information for the purposes of clause 43 (2) (d);

(t.1) prescribing classes of developments and classes of services related to developments for the purposes of subsection 59.1 (2);

(t.2) prescribing Acts and provisions of Acts for the purposes of subsection 59.1 (2);

(u) requiring municipalities to give notice of the particulars of development charge by-laws that are in force, in the manner, and to the persons, prescribed in the regulations;

(v) requiring municipalities to prepare and distribute pamphlets to explain their development charge by-laws and governing the preparation of such pamphlets and their distribution by municipalities and others. 1997, c. 27, s. 60 (1); 2006, c. 33, Sched. H, s. 3; 2015, c. 26, s. 9.

Forms

(2) Regulations under subsection (1) may require the use of forms approved by the Minister of Municipal Affairs and Housing. 1997, c. 27, s. 60 (2).

Section Amendments with date in force (d/m/y)

2006, c. 33, Sched. H, s. 3 - 04/05/2007

2015, c. 26, s. 9 (1-3) - 01/01/2016

2016, c. 25, Sched. 1, s. 2 - not in force

PART V
TRANSITIONAL RULES

Interpretation

61 In this Part,

"old Act" means the *Development Charges Act* as it reads immediately before this section comes into force; ("ancienne loi")

"transition period" means the 18-month period beginning on the day this section comes into force. ("période de transition") 1997, c. 27, s. 61.

By-laws under the old Act

62 (1) This section applies with respect to a development charge by-law under the old Act. 1997, c. 27, s. 62 (1).

Continues during transition period

(2) Unless it expires or is repealed earlier, a development charge by-law continues in force until the end of the transition period and the old Act continues to apply with respect to the by-law. 1997, c. 27, s. 62 (2).

Application of old Act

(3) A municipality may, under the old Act, amend or repeal a development charge by-law with respect to which the old Act applies under subsection (2) but the municipality may not pass a new development charge by-law under that Act. 1997, c. 27, s. 62 (3).

Repeal at the end of transition period

(4) A development charge by-law under the old Act that has not already expired or been repealed expires at the end of the transition period. 1997, c. 27, s. 62 (4).

Front-ending agreement requirement

(5) For the purposes of subsection 44 (1), a development charge by-law under the old Act shall be deemed to be a development charge by-law under this Act. 1997, c. 27, s. 62 (5).

Reserve funds under the old Act

63 (1) This section applies with respect to a reserve fund under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period. 1997, c. 27, s. 63 (1).

Eligible services

(2) If a reserve fund is not for a service referred to in paragraphs 1 to 7 of subsection 2 (4) then, upon the expiry or repeal of the development charge by-law, the reserve fund shall be deemed to be a reserve fund under this Act. 1997, c. 27, s. 63 (2).

Ineligible services

(3) If a reserve fund is for a service referred to in paragraphs 1 to 7 of subsection 2 (4) then, upon the expiry or repeal of the development charge by-law, the following apply:

1. The reserve fund shall be deemed to be a general capital reserve fund for the same purpose.
2. The municipality may, at any time, allocate all the money in the fund to one or more reserve funds established under development charge by-laws under this Act.
3. Five years after the development charge by-law expires or is repealed, the municipality shall allocate any money remaining in the fund to reserve funds established under development charge by-laws under this Act or, if there are no such reserve funds, to a general capital reserve fund.
4. Despite paragraph 1, subsection 417 (4) of the *Municipal Act, 2001* and any equivalent provision of, or made under, the *City of Toronto Act, 2006* do not apply with respect to the fund. 1997, c. 27, s. 63 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (3).

Interpretation

(4) In this section and in sections 64, 65 and 66, references to paragraphs 1 to 7 of subsection 2 (4) shall be read as references to those provisions as they read before the day subsection 2 (2) of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 10.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (3) - 01/01/2007

2015, c. 26, s. 10 - 01/01/2016

Credits under old section 13, ineligible services

64 (1) The following apply with respect to a development charge by-law that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period:

1. Within 20 days after the expiry or repeal of the development charge by-law, the clerk of the municipality shall give written notice of the expiry or repeal of the by-law and of the last day for applying for a refund of ineligible credits given under section 13 of the old Act which shall be the day that is 80 days after the day the by-law expires or is repealed.
2. Notices required under paragraph 1 must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations.
3. A notice required under paragraph 1 shall be deemed to have been given,
    i. if the notice is by publication in a newspaper, on the day that the publication occurs,
    ii. if the notice is given by mail, on the day that the notice is mailed.
4. On or before the day that is 90 days after the last day for applying for a refund of ineligible credits given under section 13 of the old Act, the municipality shall pay each holder of such a credit the full value of the credit. 1997, c. 27, s. 64 (1).

"Ineligible credit"

(2) In this section,

"ineligible credit" is a credit given under the old Act in respect of a service referred to in paragraphs 1 to 7 of subsection 2 (4) including such a credit given under the old Act as it applies under section 62. 1997, c. 27, s. 64 (2).

Credits under old section 13, eligible services

65 (1) The following apply with respect to a development charge by-law that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period:

1. The holder of an eligible credit given under section 13 of the old Act is entitled to be given a credit towards a development charge under a development charge by-law under this Act of the same municipality under whose by-law the eligible credit was given.
2. A credit may only be given with respect to the service to which the eligible credit related. 1997, c. 27, s. 65 (1).

"Eligible credit"

(2) In this section,

"eligible credit" is a credit given under the old Act in respect of a service not referred to in paragraphs 1 to 7 of subsection 2 (4) including such a credit given under the old Act as it applies under section 62. 1997, c. 27, s. 65 (2).

Debt under the old Act for eligible services

66 (1) This section applies with respect to a debt, other than credits, incurred with respect to a service not referred to in paragraphs 1 to 7 of subsection 2 (4), under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period. 1997, c. 27, s. 66 (1).

Can be included as capital cost

(2) For the purposes of developing a development charge by-law, the debt may be included as a capital cost subject to any limitations or reductions in this Act or the regulations. 1997, c. 27, s. 66 (2).

Agreements to pay early or late

67 (1) This section applies with respect to an agreement under subsection 9 (4) or (8) of the old Act (early or late payment) that relates to a development charge under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62 at the end of the transition period. 1997, c. 27, s. 67 (1).

Agreements continued

(2) An agreement continues in force after the development charge by-law expires or is repealed but only in respect of a development charge that was payable, in the absence of the agreement, before the development charge by-law expired or was repealed. 1997, c. 27, s. 67 (2).

Regulations, transition

68 (1) The Lieutenant Governor in Council may make regulations,

(a) governing notices for the purposes of paragraph 2 of subsection 64 (1);

(b) for the purposes of section 66, limiting the circumstances in which a debt may be included as a capital cost and prescribing reductions that shall be made if a debt is to be included as a capital cost;

(c) setting out transitional rules relating to credits given under section 14 of the old Act;

(d) setting out transitional rules relating to front-ending agreements under Part II of the old Act;

(e) setting out transitional rules dealing with matters not specifically dealt with in this Part;

(f) clarifying the transitional rules set out in this Part. 1997, c. 27, s. 68 (1).

Same

(2) Regulations under clause (1) (c) may provide for procedures to apply in relation to credits given under section 14 of the old Act and, without limiting the generality of the foregoing, such regulations may provide for appeals to the Ontario Municipal Board. 1997, c. 27, s. 68 (2).

69-72 OMITTED (AMENDS OR REPEALS OTHER ACTS). 1997, c. 27, ss. 69-72.

73 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1997, c. 27, s. 73.

74 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1997, c. 27, s. 74.

Français

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THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2014)-19692

A by-law for the imposition of Development Charges and to repeal By-law Number (2009) – 18729

WHEREAS the City of Guelph will experience growth through development and re-development;

AND WHEREAS development and redevelopment require the provision of physical and other services by the City of Guelph;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth-related demands for, or burden on, municipal services does not place an undue financial burden on the City of Guelph or its taxpayers;

AND WHEREAS the *Development Charges Act, 1997* (the "Act") provides that the council of a municipality may by by-law impose development charges against land to pay for increased Capital Costs required because of increased needs for services arising from the development and redevelopment of land;

AND WHEREAS a development charge background study and addenda reports have been completed in accordance with the Act;

AND WHEREAS the Council of the Corporation of the City of Guelph has given notice of and held public meetings on the 18th day of November, 2013 and the 27th day of January, 2014 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

1. INTERPRETATION

In this By-law, the following items shall have the corresponding meanings:

"Act" means the *Development Charges Act, 1997,* S.O. 1997, c. 27, as amended, or any successor thereof;

"Accessory Use" means a use, including a building or structure, that is subordinate in purpose or floor area or both, naturally and normally incidental, and exclusively devoted to the main use, building or structure situated on the same lot;

"Apartment" means any Dwelling Unit within a building containing three or more Dwelling Units where access to each Dwelling Unit is obtained through a common entrance or entrances from the street level and the Dwelling Units are connected by an interior corridor;

"Bedroom" means a habitable room not less than seven square metres, including a den, study or other similar area, but does not include a living room, dining room or kitchen;

"Board of Education" has the same meaning as "Board" as set out in the *Education Act*, R.S.O. 1990, c. E.2, as amended, or any successor thereof;

"Building Code Act" means the *Building Code Act*, S.O. 1992, c. 23, as amended, or any successor thereof;

"Capital Costs" means costs incurred or proposed to be incurred by the City or a Local Board thereof directly or by others on behalf of, and as authorized by, the City or Local Board,

(a) to acquire land or an interest in land, including a leasehold interest,

(b) to improve land,

(c) to acquire, lease, construct or improve buildings and structures,

(d) to acquire, construct or improve facilities including,

(i) furniture and equipment other than computer equipment,
(ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c. P.44, as amended, or any successor thereof, and
(iii) rolling stock with an estimated useful life of seven years or more, and

(e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d) above, including the development charge background study,

required for the provision of Services designated in this By-law within or outside the City, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

"City" means The Corporation of the City of Guelph;

"Computer Establishment" means a building or structure used or designed or intended for use as a computer establishment as this term is defined in the Zoning By-Law and located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-Law;

"Council" means the Council of the Corporation of the City of Guelph;

"Development" means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof or any development requiring any of the actions described in section 3.4(a), and includes Redevelopment;

"Development Charge" means a charge imposed with respect to this By-law;

"Discounted Services" means those Services described in section 2.1(a);

"Dwelling Unit" means any part of a building or structure used or designed or intended for use as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

"Existing Industrial Building" means a building used for or in connection with,

(a) manufacturing, producing, processing, storing or distributing something,

(b) research or development in connection with manufacturing, producing or processing something,

(c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed a material portion of, if the retail sales are at the site where the manufacturing, production or processing takes place,

(d) storage by a manufacturer, producer or processor of something they manufactured, produced or processed a material portion of, if the storage is at the site where the manufacturing, production or processing takes place,

(e) office or administrative purposes, if they are,

(i) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and

(ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution,

provided that: (A) such industrial building or buildings existed on a lot in the City of Guelph on the day this By-law comes into effect or the first industrial building or buildings constructed and occupied on a vacant lot pursuant to site plan approval under section 41 of the Planning Act subsequent to this By-law coming into effect for which full Development Charges were paid; and (B) an Existing Industrial Building shall not include retail warehouses;

"Farm Building" means that part of a building or structure which is part of a bona fide farming operation, including barns, silos and other Development ancillary to an agricultural use, but excluding a Residential Use;

"Garden Suite" includes a coach house and means a Dwelling Unit which may be designed to be portable, which is located on the same lot as, and fully detached from, an existing Dwelling Unit and which is clearly ancillary to the existing Dwelling Unit;

"Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

"Gross Floor Area" means:

(a) in the case of a residential building or structure, the total area of all floors above Grade of a Dwelling Unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the Dwelling Unit from any other Dwelling Unit or other portion of a building; and

(b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below Grade measured between the outside surfaces of the exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing a Non-Residential Use and a Residential Use, and includes the floor area of a Mezzanine;

"Local Board" has the same definition as defined in the Act;

"Mezzanine" means the floor area located between the floor and the ceiling of any room or storey, with or without partitions or other visual obstructions;

"Mobile Home" means any Dwelling Unit that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

"Multiple Unit Dwellings" means any Dwelling Unit other than a Single Detached Unit, Semi-Detached Unit and Apartment Dwellings Unit;

"Multiple Unit Cluster Townhouse" means a Townhouse situated on a lot in such a way that at least one Dwelling Unit does not have legal frontage on a public street;

"Multiple Unit Stacked Townhouse" means one building or structure containing two Townhouses divided horizontally, one atop the other;

"Non-Discounted Services" means those Services described in section 2.1(b);

"Non-Residential Use" means land, buildings or structures of any kind whatsoever used or designed or intended for a use other than a Residential Use;

"Owner" means the owner of land or a person who has made application for an approval for the Development of land upon which a development charge is imposed;

"Place of Worship" means that part of a building or structure that is exempt from taxation as a place of worship under the Assessment Act, R.S.O. 1990, c. A.31, as amended, or any successor thereof;

"Redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from a Residential Use to a Non-Residential Use or from a Non-Residential Use to a Residential Use, or changing a building or structure from one form of Residential Use to another form of Residential Use or from one form of Non-Residential Use to another form of non-residential and including any development or redevelopment requiring any of the actions described in section 3.4(a);

"Research Establishment" means a building or structure used or designed or intended for use as a research establishment as this term is defined in the Zoning By-Law and is located in the B.1 (Industrial) Zone, B.2 (Industrial) Zone, B.3 (Industrial) Zone or B.5 (Corporate Business Park) Zone or in any specialized B.1, B.2, B.3 or B.5 Zone under the Zoning By-Law;

"Residential Use" means land, buildings or structures of any kind whatsoever used or designed or intended for use as living accommodations for one or more individuals, but does not include land, buildings, or structures used or designed or intended for use as Short Term Accommodation;

"Semi-Detached Unit" means a Dwelling Unit in a residential building consisting of two Dwelling Units having one vertical wall or one horizontal wall, but no other parts, attached;

"Service" means a service designated in section 2.1, and "Services" shall have a corresponding meaning;

"Short Term Accommodation" means a building or structure used or designed or intended for use as a hotel, tourist home, lodging unit or bed and breakfast as these terms are defined in the Zoning By-Law;

"Single Detached Unit" means a free-standing, separate and detached residential building or structure consisting of one Dwelling Unit, and includes a Mobile Home but does not include a Garden Suite;

"Townhouse" means a building or structure that is divided vertically into three or more separate Dwelling Units and includes a row house;

"University" means the University of Guelph established by An Act to Incorporate the University of Guelph, S.O. 1964, c. 120, as amended;

"University Related Purposes" means those objects and purposes set out in section 3 of An Act to Incorporate the University of Guelph, S.O. 1964, c. 120, as amended;

"Zoning By-Law" means City of Guelph By-law Number (1995)-14864, as amended, or any successor thereof.

2. DESIGNATION OF SERVICES

2.1 The two categories of Services for which Development Charges are imposed under this By-law are as follows:

(a) Non-Discounted Services:

i. Water Services;
ii. Wastewater Services;
iii. Stormwater Services;
iv. Services Related to a Highway and Related Services;
v. Fire Protection Services; and
vi. Police Services;

(b) Discounted Services:
  i. Library Services;
  ii. Indoor Recreation Services;
  iii. Outdoor Recreation Services;
  iv. Transit;
  v. Administration;
  vi. Ambulance Services;
  vii. Municipal Courts;
  viii. Health Services; and
  ix. Municipal Parking.

2.2 The components of the Services designated in section 2.1 are described in Schedule A.

3. APPLICATION OF BY-LAW RULES

3.1 Development Charges shall be payable in the amounts set out in this By-law where:

(a) the lands are located in the area described in section 3.2; and
(b) the Development requires any of the approvals set out in section 3.4(a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the City.

3.3. This By-law shall not apply to lands that are owned by and used for the purposes of:

(a) the City or a Local Board thereof;
(b) a Board of Education; or
(c) the Corporation of the County of Wellington or a Local Board thereof.

Approvals for Development

3.4 (a) Development Charges shall be imposed on all land, buildings or structures that are developed for residential or Non-Residential Uses if the Development requires:

(i) the passing of a Zoning By-Law or of an amendment to a Zoning By-Law under section 34 of the *Planning Act*;
(ii) the approval of a minor variance under section 45 of the *Planning Act*;
(iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
(iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;
(v) a consent under section 53 of the *Planning Act*;
(vi) the approval of a description under section 9 of the *Condominium Act*, S.O. 1998, c. C.19, as amended, or any successor thereof; or
(vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

(b) No more than one development charge for each Service designated in section 2.1 shall be imposed upon any land, buildings or structures to which this By-law applies even though two or more of the actions described in section 3.4(a) are required before the land, buildings or structures can be developed.

(c) Despite section 3.4(b), if two or more of the actions described in section 3.4(a) occur at different times, additional Development Charges shall be imposed if the subsequent action has the effect of increasing the need for Services.

Exemptions

3.5.1 Notwithstanding the provisions of this By-law, Development Charges shall not be imposed with respect to:

(a) Development of land, buildings or structures for University-Related Purposes within the University defined area as set out in Schedule C;

(b) land, buildings or structures outside the defined area as set out in Schedule C which are now owned directly or indirectly by the University or on behalf of the University or which may be acquired by the University and which are developed or occupied for University-Related Purposes, provided that, where only a part of such land, buildings or structures are so developed, then only that part shall be exempt from the Development Charges specified under this By-law;

(c) land, buildings or structures used or to be used for a Place of Worship or for the purposes of a cemetery or burial ground exempt from taxation under the *Assessment Act*;

(d) land, buildings or structures used or to be used by a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, as amended, or any successor thereof;

(e) Non-Residential Uses permitted pursuant to section 39 of the *Planning Act*;

(f) the Development of non-residential Farm Buildings constructed for bona fide farm uses;

(g) Development creating or adding an Accessory Use or accessory structure not exceeding 10 square metres of Gross Floor Area;

(h) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, as amended, or any successor thereof;

(i) the issuance of a building permit for the enlargement or creation of Dwelling Units in prescribed classes in accordance with section 2(3) of the Act; or

(j) the exempt portion of an enlargement of the Gross Floor Area of an Existing Industrial Building in accordance with section 4 of the Act.

3.5.2 For the purposes of the exemption for the enlargement of Existing Industrial Buildings set out in section 3.5.1(j) of this By-law, the following provisions shall apply:

(a) there shall be an exemption from the payment of Development Charges for one or more enlargements of an Existing Industrial Building on its lot, whether attached or separate from the Existing Industrial Building, up to a maximum of fifty per cent of the Gross Floor Area before the first enlargement for which an exemption from the payment of Development Charges was granted pursuant to the Act or under this section of the By-law or any predecessor hereof;

(b) Development Charges shall be imposed in the amounts set out in this By-law with respect to the amount of floor area of an enlargement that results in the Gross Floor Area of the industrial building being increased by greater than fifty per cent of the Gross Floor Area of the Existing Industrial Building;

(c) despite any new lots created which result in an Existing Industrial Building being on a lot separate from its enlargement or enlargements for which an exemption was granted pursuant to the Act or under this section of the By-law (or any predecessor hereof), further exemptions, if any, pertaining

to the Existing Industrial Building shall be calculated in accordance with this section of the By-law on the basis of its lot prior to any division; and

(d) for greater clarity, "Research Establishment" and "Computer Establishment" uses of land, buildings or structures are not industrial uses of land, buildings or structures under this By-law and do not qualify for the exemption under section 3.5.1(j).

Amount of Charges

Residential

3.6 The Development Charges set out in Schedule B, shall be imposed on Residential Uses of land, buildings or structures, including a Dwelling Unit accessory to a Non-Residential Use and, in the case of a mixed use building or structure, on the Residential Uses in the mixed use building or structure, according to the type of residential unit and calculated with respect to each of the Services according to the type of Residential Use.

Non-Residential

3.7 The Development Charges set out in Schedule B, shall be imposed on Non-Residential Uses of land, buildings.

Reduction of Development Charges for Redevelopment

3.8 Despite any other provisions of this By-law, where a building or structure existing on the same land within 48 months prior to the date that the building permit is issued in regard to such Redevelopment was, or is to be demolished, in whole or in part pursuant to an issued demolition permit, or converted from one principal use to another principal use on the same land, in order to facilitate the Redevelopment, the Development Charges 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 Residential Uses in a mixed-use building or structure, an amount calculated by multiplying the applicable development charge under section 3.6 by the number, according to type, of Dwelling Units that have been or will be destroyed, demolished or converted to another principal use; and

(b) in the case of a non-residential building or structure or in the case of the Non-Residential Uses in a mixed-use building or structure, an amount calculated by multiplying the applicable Development Charges under sections 3.7 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 Development Charges otherwise payable with respect to the Redevelopment. For greater certainty, any amount of the reductions set out above that exceed the amount of Development Charges otherwise payable with respect to the Redevelopment shall be reduced to zero and shall not be transferred to any other Development or Redevelopment.

3.9 For the purposes of determining the 48 month period referred to in section 3.8, the date that a building or structure is deemed to be demolished shall be:

(a) the date such building or structure was demolished, destroyed or rendered uninhabitable; or

(b) if the former building or structure was demolished pursuant to a demolition permit issued before it was destroyed or became uninhabitable, the date the demolition permit was issued.

3.10 For greater certainty, the reduction of Development Charges referred to in section 3.8 does not apply where the demolished building or structure, or any part thereof, when originally constructed was exempt from the payment of Development Charges pursuant to this By-law, or any predecessor thereof.

Time of Payment of Development Charges

3.11 Development Charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the Development.

3.12 (a) Despite section 3.11, Development Charges with respect to water Services, wastewater Services, stormwater Services, and Services related to a Highway and related Services imposed under section 3.6 with respect to an approval of a residential plan of subdivision under section 51 of the *Planning Act,* except for a residential plan of subdivision for Multiple Unit Cluster Townhouses, Multiple Unit Stacked Townhouses, and Apartments, are calculated, payable and collected immediately upon the Owner entering into the subdivision agreement respecting such plan of subdivision, on the basis of the following:

(i) the proposed number and type of Dwelling Units in the final plan of subdivision; and

(ii) with respect to blocks in the plan of subdivision intended for future development, the maximum number and type of dwelling units permitted under the zoning in effect at the time the development charges are payable.

(b) Where a payment has been made pursuant to section 3.12(a), Development Charges with respect to all Services imposed under section 3.6 except for water Services, wastewater Services, stormwater Services, and Services related to a Highway and related Services shall be calculated, payable and collected upon issuance of a building permit for the Development in accordance with section 3.11.

3.13 For the purposes of section 3.12(a)(ii), where the use or uses to which a block in a plan of subdivision may be put pursuant to a zoning by-law passed under section 34 of the *Planning Act* are affected by the use of a holding symbol in the zoning by-law as authorized by section 36 of the *Planning Act*, the maximum number and type of dwelling units shall be determined by reference to the uses in the zoning by-law without regard to the holding symbol.

3.14 For the purposes of sections 3.12(a) and 3.13, where a subdivision agreement identifies the number and type of Dwelling Units proposed for the residential plan of subdivision, the number and type of Dwelling Units so identified shall be used to calculate the Development Charges payable under section 3.12(a).

3.15 Despite sections 3.11 and 3.12(a), Council from time to time and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

3.16 (a) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a):

(i) the type of Dwelling Unit for which the building permit or permits are being issued is different from that used for the calculation and payment under section 3.12(a);

(ii) there has been no change in the zoning affecting such lot or block; and

(iii) the Development Charges for the type of Dwelling Unit for which the building permit or permits are being issued were greater at the time that payments were made pursuant to section 3.12(a) than for the type of Dwelling Unit used to calculate the payment under section 3.12(a),

an additional payment to the City is required for the Services paid for pursuant to section 3.12(a), which additional payment, in regard to such different unit types, shall be the difference between the Development Charges for those Services in respect to the type of Dwelling Unit for which the building permit or permits are being issued, calculated as at the date of issuance of the building permit or permits, and the Development Charges for those Services previously collected in regard thereto, adjusted in accordance with section 5.

(b) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a):

(i) the total number of Dwelling Units of a particular type for which the building permit or permits have been or are being issued is greater, on a cumulative basis, than that used for the calculation and payment under section 3.12(a); and
(ii) there has been no change in the zoning affecting such lot or block,

an additional payment to the City is required for the Services paid for pursuant to section 3.12(a), which additional payment shall be calculated on the basis of the number of additional Dwelling Units at the rate for those Services prevailing at the date of issuance of the building permit or permits for such Dwelling Units.

(c) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a):

(i) the type of Dwelling Unit for which the building permit or permits are being issued is different than that used for the calculation and payment under section 3.12(a);
(ii) there has been no change in the zoning affecting such lot or block; and
(iii) the Development Charges for the type of Dwelling Unit for which building permits are being issued were less at the time that payments were made pursuant to section 3.12(a) than for the type of Dwelling Unit used to calculate the payment under section 3.12(a),

a refund shall be paid by the City for the Services paid for pursuant to section 3.12(a) in regard to such different unit types, which refund shall be the difference between the Development Charges for those Services previously collected, adjusted in accordance with section 5 to the date of issuance of the building permit or permits, and the Development Charges for those Services in respect to the type of Dwelling Unit for which building permits are being issued, calculated as at the date of issuance of the building permit or permits.

(d) If, at the time of issuance of a building permit or permits in regard to a lot or block on a plan of subdivision for which payments have been made pursuant to section 3.12(a),

(i) the total number of Dwelling Units of a particular type for which the building permit or permits have been or are being issued is less, on a cumulative basis, than that used for the calculation and payment under section 3.12(a), and
(ii) there has been no change in the zoning affecting such lot or block,

a refund shall be paid by the City for the Services paid for pursuant to section 3.12(a), which refund shall be calculated on the basis of the number of fewer Dwelling Units at the rate for those Services prevailing at the date of issuance of the building permit or permits for such Dwelling Units.

3.17 Despite sections 3.16 (c) and (d), a refund shall not exceed the amount of the Development Charges for the Services paid under section 3.12(a).

4. PAYMENT BY SERVICES

Despite the payment required under sections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a Service to which a development charge relates under this By-law.

5. INDEXING

Development Charges pursuant to this By-law shall be adjusted annually, without amendment to this By-law, commencing on the first anniversary date of this By-law coming into effect and each anniversary date thereafter, in accordance with the index prescribed in the Act.

6. SCHEDULES

The following schedules shall form part of this By-law:

Schedule A	-	Components of Services Designated in Section 2.1
Schedule B	-	Residential and Non-Residential Development Charges
Schedule C	-	Lands Exempt from Development Charges in Regard to the University of Guelph within the Defined Area

7. CONFLICTS

7.1 Where the City and an Owner or former Owner have entered into an agreement with respect to land within the area to which this By-law applies and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.

7.2 Notwithstanding section 7.1, where a Development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in section 3.4(a), an additional Development charge in respect of the Development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the Development has the effect of increasing the need for Services, unless such agreement provides otherwise.

8. SEVERABILITY

If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. DATE BY-LAW IN FORCE

This By-law shall come into effect at 12:01 A.M. on **March 2, 2014.**

10. DATE BY-LAW EXPIRES

This By-law will expire at 12:01 A.M. on **March 2, 2019** unless it is repealed by Council at an earlier date.

11. EXISTING BY-LAW REPEALED

By-law Number (2009)-18729 is hereby repealed as of the date and time of this By-law coming into effect.

PASSED this TENTH day of February, 2014

Karen Farbridge, Mayor

Tina Agnello, Deputy Clerk

By-law Number (2014)-19692
Schedule A

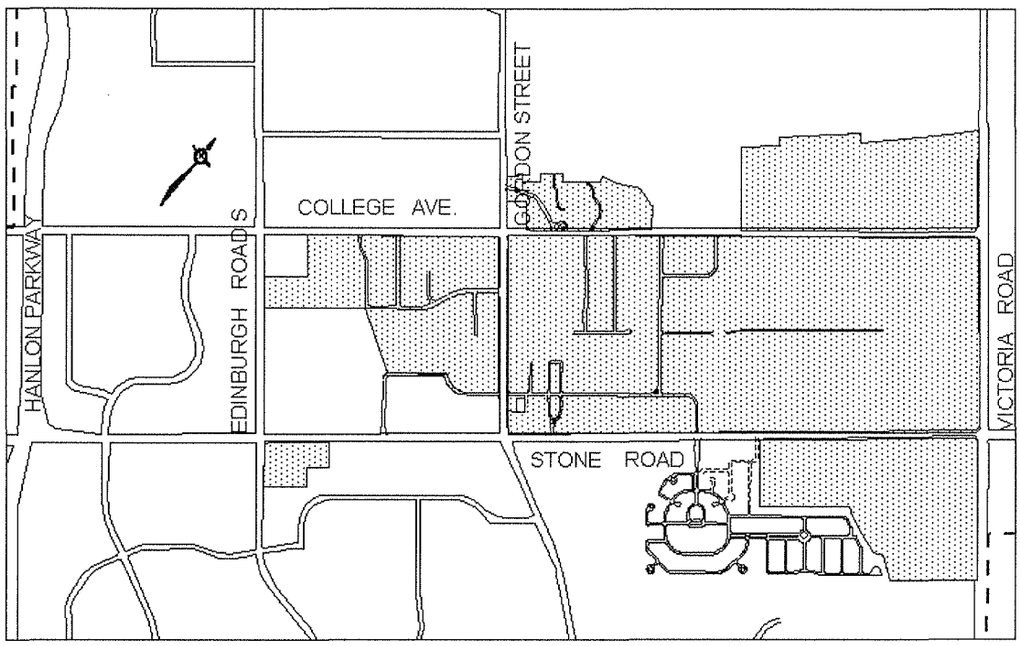
COMPONENTS OF SERVICES DESIGNATED IN SECTION 2.1

100% Eligible Services
- Water Services
  - Treatment Plants and Storage
  - Distribution Systems
- Wastewater Services
  - Treatment Plant
  - Sewers
- Stormwater Services
- Services Related to a Highway & Related (Facility & Vehicle/Equipment) Services
  - Services Related to a Highway & Traffic Signals
  - Public Works Rolling Stock
- Fire Protection Services
  - Fire Stations
  - Fire Vehicles
  - Small Equipment and Gear
- Police Services
  - Police Detachments
  - Small Equipment and Gear

90% Eligible Services
- Library Services
  - Public Library Space
  - Library Materials
- Transit
  - Transit Vehicles
  - Transit Facilities
  - Other Transit Infrastructure
- Administration
  - Studies
- Indoor Recreation Services
  - Recreation Facilities
  - Recreation Vehicles and Equipment
- Outdoor Recreation Services
  - Parkland Development, Amenities, Amenity Buildings, Trails
  - Parks Vehicles and Equipment
- Ambulance Services
  - Ambulance Facilities
  - Vehicle Equipment
- Municipal Parking
  - Municipal Parking Spaces
- Municipal Courts
  - Facility Space
- Health Services
  - Facility Space

By-Law Number (2014)-19692
Schedule C

UNIVERSITY OF GUELPH
"DEFINED AREAS"



DEFINED AREA