



Report to: General Committee

Report Date: December 2, 2013

SUBJECT: Provincial Development Charges Review 2013
PREPARED BY: Kevin Ross, Ext. 2126
Tom Villella, Ext. 2758

RECOMMENDATION:

- 1) THAT the report entitled "Provincial Development Charges Review 2013" be received;
- 2) THAT Council recommend a revision to the *Development Charges Act, 1997*, to remove the 10% discount applied to services such as recreation, libraries, park development and transit;
- 3) THAT Council recommend a revision to the *Development Charges Act, 1997*, to change the requirement to calculate 10-year historic average service levels;
- 4) THAT Council recommend a revision to the *Development Charges Act, 1997*, to allow for the usage of a flexible methodology in the calculation of the service levels;
- 5) THAT Council recommend a revision to the *Development Charges Act, 1997*, to include waste management, administrative buildings and hospitals as services that are eligible for development charges;
- 6) THAT Council recommend a revision to the *Development Charges Act, 1997*, to amend the definition of capital cost to allow for the recovery of computer equipment;
- 7) THAT Council authorize staff to prepare and submit these recommendations, with supporting evidence, for improving the *Development Charges Act, 1997* to the Ministry of Municipal Affairs and Housing by January 10, 2014, with a copy to the Municipal Finance Officers Association;
- 8) THAT a letter in support of the recommended changes to the *Development Charges Act, 1997* be forwarded to the Premier of Ontario and the Minister of Municipal Affairs and Housing by the Mayor; and
- 9) THAT staff be directed to do all things necessary to give effect to this report.

EXECUTIVE SUMMARY:

N/A

PURPOSE:

The purpose of this report is to notify Council of the current review being conducted with respect to the *Development Charges Act, 1997* (the “DCA”) and to request changes to the DCA, aimed at ensuring that “growth pays for growth”, which is the intention of the legislation.

BACKGROUND:

In August 2013 the Provincial Ministry of Municipal Affairs and Housing (“MMAH”) announced a review of the municipal development financing regime, including the *Development Charges Act, 1997*, density bonusing (Section 37) and the parkland dedication provisions in the Planning Act. Municipalities are being encouraged to prove the need for broad reform as it relates to the financial sustainability of growth and the achievement of growth under the Places to Grow Initiative.

This report will focus on the review of the DCA and highlight recommended changes to the legislation, which in staff’s opinion, are important for the municipality to fully fund development-related infrastructure and to ensure that “growth pays for growth” which is the underlying tenet of the DCA.

Municipalities have until January 10, 2014 to submit evidence-based concerns and ideas for improving the legislation the MMAH.

OPTIONS/DISCUSSION:

Municipalities have, over the years requested a review of the DCA, as in its present state, the legislation is not providing municipalities with the right tools to obtain the requisite funding to cover the cost of growth-related infrastructure.

In 2011, the Municipal Finance Officers Association (MFOA) conducted a review of the DCA, with the input of municipalities, and approached the Province with a request to review and update the legislation. The MFOA report recommended three (3) core changes to the legislation as follows:

- 1) Remove the requirement for municipalities to apply a 10% discount to many services (e.g. transit, recreation and library services, parkland development etc.);
- 2) Replace the existing service level calculation which mandates an average service level calculation for the previous 10 years with a more flexible understanding of service levels; and
- 3) Eliminate the section on “Ineligible Services” so that all services are eligible for development charges.

The Province, at that time, indicated that no review of the DCA would be conducted, so the recommendations were not given careful consideration.

In August of this year, the Minister of MMAH announced that the DCA will be reviewed and gave an 80-day period for discussion and input from the various stakeholders. The consultation timeline includes the following key dates:

- October 24, 2013 – MMAH launched the consultation process and issued the development charge consultation document (Appendix A)
- October 29, 2013 – Email sent to municipalities inviting staff to attend a consultation meeting. Markham attended its consultation meeting on November 8, 2013
- November 22, 2013 – Development financing review webinar
- January 10, 2014 – Last day to submit evidence-based concerns and ideas for improving the legislation to the MMAH.

The MMAH document issued on October 29th, raises discussion points around the following issues:

- 1) Development Charges Process
- 2) Eligible Services
- 3) Reserve Funds
- 4) Section 37 and Parkland Dedication
- 5) Voluntary Payments
- 6) Growth and Housing Affordability
- 7) High Density Growth Objectives

Review of Issues

The issues and questions raised in the MMAH document are reviewed and addressed below. These preliminary responses will be refined as further evidenced-based information to support the municipality's position is accumulated.

1) Development Charges Process

Does the development charge methodology support the right level of investment in growth-related infrastructure?

- a. Generally the DCA provides a sound basis upon which municipalities can fund growth-related infrastructure; however, as acknowledged in the Provincial document, the DCA does not allow for 100% of growth-related capital costs as follows:
 - i. There are services not eligible for funding such as central administration functions, waste services and hospitals.
 - ii. There is a mandatory 10% discount on services such as transit, recreation, libraries, park development, general services and parking.
 - iii. The 10-year historical service level calculation inhibits, if not prohibits, the establishment of new services, as there is no historic

service level, and therefore, no development charge available. This results in funding for new services being obtained from other sources such as the tax base.

Should the Development Charges Act, 1997 more clearly define how municipalities determine the growth-related capital costs recoverable from development charges? For example, should the Act explicitly define what is meant by benefit to existing development?

- a. The Ontario DCA is, arguably, already the most prescriptive growth-related capital infrastructure funding legislation in Canada and the United States. The DCA provides for a process that must be followed to determine the share of capital infrastructure projects that can be considered growth-related and furthermore the shares that can be funded from development charges.
- b. It is important that the DCA continue to allow sufficient flexibility to reflect municipal differences in growth, development, servicing needs and demands:
 - i. The City of Markham is very different from the City of Toronto, City of Greater Sudbury or the Town of Orangeville – making the DCA more prescriptive will make it more difficult to establish development charges that reflect municipal differences.
- c. For most municipal services the approach, or approaches, to quantifying the benefit to existing (BTE) shares have been well established over the last 20+ years, since the first DC by-laws of 1990/91. The approaches and calculations are, for the most part, set out clearly in the Background Study allowing for transparency and review by stakeholders.
- d. The DCA allows for the appeal of a DC by-law to the Ontario Municipal Board (OMB). If stakeholders don't agree with the determination of growth-shares or BTE shares, there is a mechanism for challenge. The OMB has provided guidance, through decisions and mediation, which have informed the way municipalities establish and calculate DCs.

Is there enough rigour around the methodology by which municipalities calculate the maximum allowable development charges?

- a. There is enough rigour as the DCA is already very prescriptive, requires a public consultation process and provides appeal mechanisms.
- b. Determination of maximum permissible DC funding envelopes, for general (soft) services is generally considered to be a function of the ten-year historic service levels and the consideration of "excess capacity":
 - i. Municipalities need the ability to define service levels that reflect the specifics of each municipality; the City of Markham is not the same as other municipalities in terms of the nature of development and the delivery of services.

- ii. The determination of excess capacity and whether it is committed or uncommitted is very specific to the service and facilities of an individual municipality, legislating additional rules or conditions could not be done in a useful or meaningful way. Municipalities should have the authority to determine if there is excess capacity in a particular facility service or facility and whether or not that capacity is available to meet the servicing needs of development; with full and proper consideration of location of development and facilities, demographic changes, current and future service levels and commitments

2) Eligible Services

The Development Charges Act, 1997 prevents municipalities from collecting development charges for specific services, such as hospitals and tourism facilities. Is the current list of ineligible services appropriate?

- a. No, the list is not appropriate and should be reviewed. Of particular concern are waste management, hospitals and general administration as these are not discretionary services, but rather necessary services that are directly impacted by development and growth.

The Development Charges Act, 1997, allows municipalities to collect 100% of growth-related capital costs for specific services. All other eligible services are subject to a 10% discount. Should the list of services subject to a 10 % discount be re-examined?

- a. Yes, the list of services should be reviewed. The original intent of the 10% discount was to prevent the “gold plating” of services by municipalities however, this is clearly regulated by the 10-year historic service level limitation; this is a net-down of otherwise DC eligible costs. The 10% discount results in a direct growth-funding shortfall which is largely borne by the property tax base. Markham’s recreation, library, park development and parking services require non-development charge funding of \$42M over the next 10 years, to provide services to the municipality’s growing population.
- b. Although not a direct City of Markham issue, the treatment of transit as a 10% discounted service restricts the ability of municipalities to properly plan for, and fund, transportation infrastructure.

Amendments to the Development Charges Act, 1997 provided Toronto and York Region an exemption from the 10 year historical service level average and the 10% discount for growth-related capital costs for the Toronto-York subway extension. Should the targeted amendments enacted for the Toronto-York Subway Extension be applied to all transit projects in Ontario or only high-order (e.g. subways, light rail) transit projects?

- a. The preferred approach would be to have transit considered a 100% cost recovery service allowing for a “Transportation” category of service that would include all types of transportation: roads, transit, biking, walking, etc.
- b. It would be appropriate to extend the Toronto/York Region subway approach to all high-order transit projects.

3) Reserve Funds

Is the requirement to submit a detailed reserve fund statement sufficient to determine how municipalities are spending reserves and whether the funds are being spent on the projects for which they were collected?

- a. Yes, the annual reserve fund statements provide significant and sufficient detail.

Should the development charge reserve funds statements be more broadly available to the public, for example, requiring mandatory posting on a municipal website?

- a. In Markham, the statements are available and are posted with the agenda when provided annually to Council. There is no objection to posting the statements online in a more permanent location.

Should the reporting requirements of the reserve funds be more prescriptive, if so, how?

- a. No, this is not necessary as the details in the current development charge statements are sufficient.

4) Section 37 and Parkland Dedication

How can Section 37 and parkland dedication processes be made more transparent and accountable?

- a) Municipalities could develop Community Infrastructure Master Plans detailing the projects that would benefit from Section 37 and Parkland Dedication contributions on a city-wide and area specific basis. The municipality should engage the public in the process for determining the list of projects contained in the Master Plans, through public meetings, Open Houses and workshops etc., in order to clearly understand and implement community priorities. The City of

Markham has recently demonstrated this through its review of its Parkland Dedication Policy, which has been an open and transparent process involving public and stakeholder participation as the draft new policy has developed over a two-year period. Markham has also engaged ratepayer groups in the application of Section 37 funds.

- b) Reserve Funds are reported on annually, consistent with the reporting requirements for municipal reserve accounts.

How can these tools be used to support the goals and objectives of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe?

- a) Municipalities could direct received Section 37 funds to projects that support Provincial Policy and Plans. An example of this would be affordable housing. Contributions could take the form of direct cash which would then be directed to affordable housing projects by the municipality, or alternatively, the contribution could be in the form of “units” within a housing development to be dedicated to affordable housing.
- b) With respect to Provincial goals of “intensification” and “complete communities”, Section 37 benefits can be used to enhance the quality and desirability of higher-density communities in order to attract more residents. With respect to Parkland Dedication contributions, the provision of parkland within a community assists in the making of a “complete community”. In addition, “cash-in-lieu of parkland” can be used to enhance parks throughout the entire municipality, to bolster parkland in underserved areas and to construct larger, specialized parks where appropriate.

5) Voluntary Payments

What role do voluntary payments outside of the Development Charges Act, 1997 play in developing complete communities?

- a) Voluntary payments can contribute to the creation of “complete communities” when used to provide neighbourhood amenities or community-wide facilities not normally funded through DCs. Examples of such amenities are public art, sustainability initiatives, enhanced streetscaping, community gardens, major sports and cultural facilities, etc. The provision of such amenities assists developers in marketing communities to potential residents and businesses, which provides some incentive for developers to participate in a voluntary payments program.

Should municipalities have to identify and report on voluntary payments received from developers?

- a) A voluntary payments reserve can be opened and reported on, consistent with the reporting requirements for municipal reserve accounts.

Should voluntary payments be reported in the annual reserve fund statement, which municipalities are required to submit to the Ministry of Municipal Affairs and Housing?

- a) The municipality has no objection to reporting aggregate amounts collected.

6) Growth and Housing Affordability

How can the impacts of development charges on housing affordability be mitigated in the future?

- a. Of all of the various Government Imposed Charges (GICs) on new development, the municipal charges (development charges, parkland fees, application fees etc.) relate directly to infrastructure needs and costs directly generated by the development of land. Other GICs imposed on new housing, i.e. HST and land transfer taxes, don't have that direct correlation.
- b. The City and other municipalities use other mechanisms to support affordable housing, allowing for deferrals/discounts/exemptions from the payment of DCs and other municipal fees and charges.

How can development charges better support economic growth and job creation in Ontario?

- a. Markham has been a leader in structuring the development charges to promote certain types of business development by using differentiated rates for industrial and retail developments, reduced rates for certain mixed-use developments, and provision of the 50% expansion exemption for business offices.

7) High Density Growth Objectives

How can the Development Charges Act, 1997 better support enhanced intensification and densities to meet both local and provincial objectives?

- a. The City's utilization of area specific DCs encourages intensification as the charge for developable land is based on land area and remains the same, irrespective of the density of the proposed development.
- b. If it is determined that intensification requires higher-order transit, the most significant shortfall of the DCA is the limitation that arises from deeming transit to be a 90% cost recovery service.

How prescriptive should the framework be in mandating tools like area-rating and marginal cost pricing?

- a. The existing legislation currently provides sufficient flexibility to capture differences in areas and infrastructure costs. The City uses area-rating to reflect local differences in the provision of growth-related capital infrastructure.

What is the best way to offset the development charge incentives related to densities?

- a. The current DCA generally gives municipalities the flexibility required to differentiate charges by density of development, if it can be shown that there is a difference in cost of providing infrastructure and servicing.
- b. The DCA also allows municipalities to discount, or exempt, areas of redevelopment and intensification. Under this approach the general property tax base and user fees, typically fund the discounts/exemptions.
- c. The DCA could be changed to allow for a “surcharge” on low-density development to offset, or fund, a “discount” on high-density development.

The above responses to the issues and questions raised will form a part of the City’s input and recommendations to the DC review process.

Recommended Changes to the Legislation

City staff, having reviewed the MMAH document and considering the role that the DCA should play in the development process, recommend the following changes to the legislation in order for it to achieve its intended purpose of “growth paying for growth”. The recommendations made will be supported by evidenced-based information.

- 1) Remove the requirement for municipalities to apply a 10% discount to services such as recreation, libraries and park development. The discount has been described as a way of ensuring that municipalities do not “gold plate” services above and beyond general municipal standards. Given the concept that growth should be paying for growth, the 10% discount is arbitrary, and is applied to the existing tax base. The DCA does not allow municipalities to offer an increased level of service from development charges, therefore the current legislation does restrict building beyond current standards.
- 2) Replace the existing service level calculation which mandates an average service level calculation for the previous 10 years. This will allow municipalities the ability to define service levels that reflect the specifics of their municipality, in terms of the nature of development and the delivery of services. The 1989 DCA allowed for the calculation of DCs at levels not greater than the highest service level achieved in the preceding 10 years.

- 3) Allow for more flexibility in the calculation of the service levels whereby municipalities can adopt approaches which are consistent with their individual circumstances. The City utilized an alternative approach which used population and households as the service base, in its 2013 DC by-law update which has been appealed to the Ontario Municipal Board.

It is not just changes in population and employment that determine, or drive, a municipality's need to construct infrastructure and increase servicing capacity to meet the needs of development. Other factors, such as; location of development, height and density of development, number of new households and added non-residential building space (gfa), amount of land development and redeveloped, that impact on a municipality's need to increase servicing capacity. The DCA needs to allow municipality's to factor these types of considerations, as determined on a local basis, into the development charge calculations.

- 4) Refine the section on "Ineligible Services" so that all services such as waste management, hospitals and administration services are eligible for development charges. These services are necessary for the residents within a municipality, are not discretionary, and are directly impacted by development and growth.
- 5) Amend the DCA definition of capital cost to allow for the recovery of computer equipment.

City staff will submit these recommendations along with the requisite supporting evidence for improving the legislation to the MMAH by the January 10, 2014 deadline, with a copy to the Municipal Finance Officers Association.

Staff is also recommending that the Mayor submit a letter with similar recommendations to the Premier of Ontario and the Minister of Municipal Affairs and Housing, which will indicate the importance of these recommended changes to the long term financial sustainability of the municipality.

FINANCIAL CONSIDERATIONS:

Changes to the legislation as requested will ensure adequate funding for municipalities to advance growth-related infrastructure and ensure that existing residents are not required to contribute financially to the establishment of new facilities or services that are intended to service growth.

The proposed changes will also ensure that facilities such as waste management, which are necessary services provided to the residents, are captured in the development charges to enable future funding to support the growth in the community.

ENVIRONMENTAL CONSIDERATIONS:

Not applicable.

ACCESSIBILITY CONSIDERATIONS:

Not applicable.

BUSINESS UNITS CONSULTED AND AFFECTED:

Planning and Legal Services.

RECOMMENDED BY:

28/11/2013

X 

Joel Lustig
Treasurer

28/11/2013

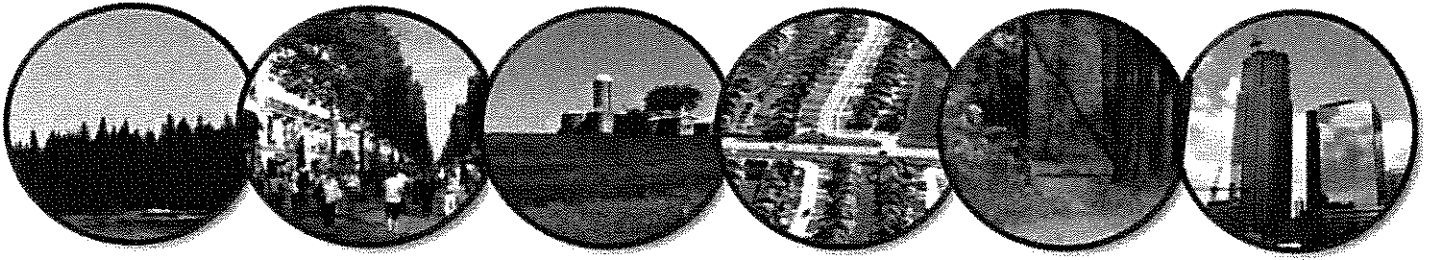
X 

Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

Appendix A – Development Charges in Ontario, Consultation Document – Fall 2013

ATTACHMENT "A"



Development Charges in Ontario

Consultation Document • Fall 2013

Development Charges Act, 1997 Review Consultation Document

Ontario is reviewing its development charges system, which includes the Development Charges Act and related municipal measures that levy costs on development (i.e. section 37 and parkland dedication provisions of the *Planning Act*), to make sure it is predictable, transparent, cost-effective and responsive to the changing needs of communities.

The Ministry of Municipal Affairs and Housing is consulting in the fall of 2013 with municipalities, the building and development industry and other key stakeholders on what changes to the system are needed.

This document is intended to help focus the discussion and identify potential targeted changes to the current framework.

Development Charges Act, 1997

The ***Development Charges Act, 1997*** lays out Ontario's regulatory and legislative framework which municipalities must follow to levy development charges.

This legislation resulted from negotiations with municipalities and developers and is based on the core principle that development charges are a primary tool in ensuring that "growth pays for growth".

Development Charges Act, 1997 Processes

To determine a development charge, a municipality must first do a background study. The background study provides a detailed overview of a municipality's anticipated growth, both residential and non-residential; the services needed to meet the demands of growth; and a detailed account of the capital costs for each infrastructure project needed to support the growth. The growth-related capital costs identified in the study are then subject to deductions and adjustments required by the legislation. These include:

- **Identifying services ineligible for a development charge.** The reason some services are exempt from development charges is that they are considered "discretionary" and not required for development to occur (e.g. entertainment and cultural facilities).
- **Requiring a service level cap tied to a ten-year historical average.** Capital costs for each service must be reduced by the costs associated with a service level greater than a 10-year historical average. This ensures new resident/business do not receive a service level greater than that provided to current residents/businesses.

Did you know?

200 of Ontario's municipalities collect development charges.

\$1.3 B in development charge revenue was collected in 2011.

Development charges accounted for 14 per cent of municipal tangible asset acquisition financing in 2011.

- **Reducing capital costs by the amount of growth-related infrastructure that benefits existing development.** For example, installation of a new transit line needed to service growth becomes part of the overall municipal system and therefore also benefits existing residents. Municipalities must estimate the financial impact of this benefit and reduce growth-related capital costs accordingly.
- **Reducing capital costs by an amount that reflects any excess capacity for a particular service.** Municipalities must account for uncommitted excess capacity for any municipal service for which they levy a development charge. For example, if a municipality wants to construct a new library they must examine if the current municipal library system is at capacity. If the system is not at capacity, a deduction to growth-related capital costs for the new library must be made. An exception is made if a municipal council indicates that excess capacity at the time it was created is to be paid for by new development.
- **Reducing capital costs by adjusting for grants, subsidies or other contributions.** If a municipality receives a grant, subsidy or other contribution for a municipal service for which a development charge is being levied growth-related capital costs must be reduced to reflect the grant, subsidy or other contribution. This attempts to prevent “double-dipping”.
- **Reducing capital costs for soft services (e.g. parkland development, transit, libraries) by 10 per cent.** The legislation specifically identifies seven municipal services for which growth-related capital costs are not subject to a 10% discount (i.e. water, wastewater, storm water, roads, electrical services, police and fire). All other services are therefore subject to a 10% discount. This measure was put in place so that a portion of growth-related costs is paid out of municipal general revenues. The deductions and adjustments attempt to identify the capital cost that can be attributed to the infrastructure needed to service growth and development. Therefore, revenue municipalities raise through development charges will help ensure growth-related capital costs are not borne by existing taxpayers.

While the legislation provides for deductions and adjustments, in some instances the Act does not specify how these are determined by municipalities. For example, municipalities must account for the impact of growth-related infrastructure benefits on existing development but the Act does not say how this impact is to be calculated.

Based on an analysis of current background studies for 19 of the largest municipalities in Ontario (single and lower tier) capital costs recovered from development charges on average accounted for 44 per cent of gross capital expenditure estimates for services that would be eligible for development charges. At a regional level (Durham, Halton, York and Peel) development charges recovered 63 per cent of gross capital expenditures (See Appendix Figure 1).

Did you know?

Hard services, such as roads, water, sewer and waste water, account for 67 per cent of all collection.

Greater Toronto Area municipalities collect 70 per cent of all development charges in Ontario.

Eligible Services

The **Development Charges Act, 1997** sets out specific services on which development charges cannot be imposed to pay for growth-related capital costs. This is a significant change from the **Development Charges Act, 1989** which gave municipal councils the authority to pass by-laws imposing charges on all forms of development to recover the net capital costs of services related to growth.

The scope of services funded under the Act was reduced by eliminating services which are not considered essential for new development and which benefit the community more broadly.

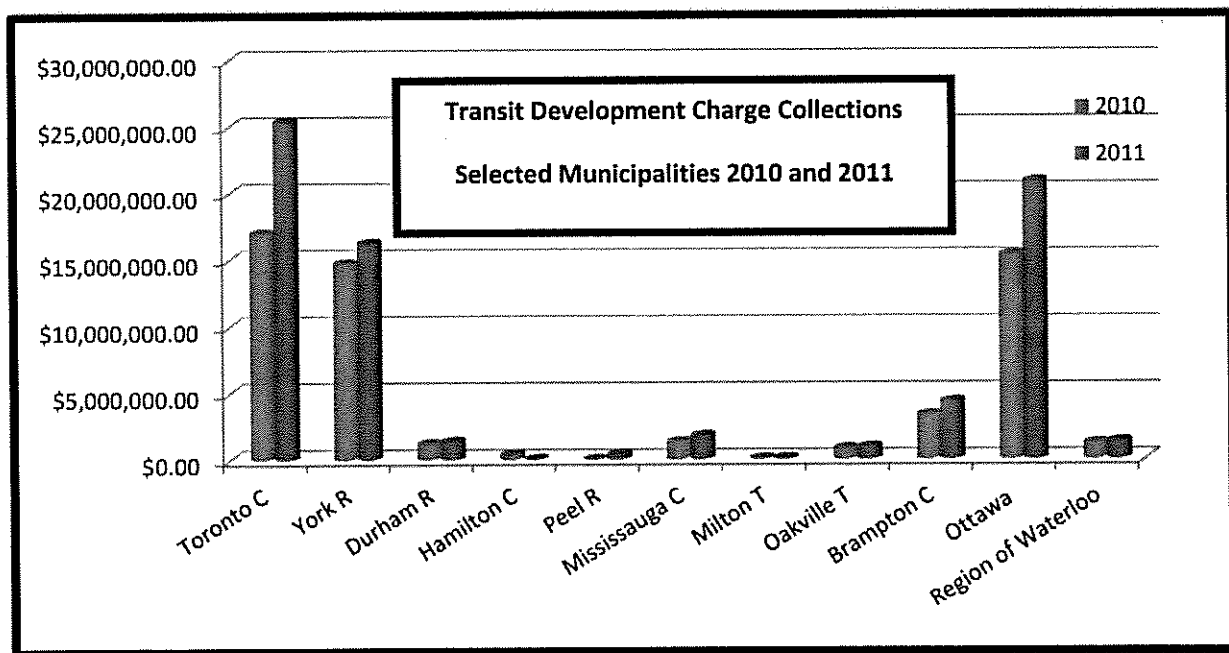
Municipalities have argued that a number of services that are currently ineligible, such as hospitals and waste management should be made eligible services for a development charge. Municipalities would also like to recover the full cost of new growth associated with particular services that are currently subject to a discount, such as transit.

The collection of development charges for transit is subject to a 10 per cent discount along with services such as parkland development, libraries, daycares, and recreational facilities. This broad category is generally referred to as “soft services” as opposed to “hard” services, such as roads and water which are not subject to the discount. The 10 per cent discount is seen as a way of ensuring that municipalities do not “gold plate” services with development money above and beyond general municipal standards.

Did you know?

In 2011, 37 municipalities collected \$74.2M in transit development charges; reserves stood at \$259.4M.

Without the 10 per cent discount applied to transit development charges, municipalities would have collected an additional \$8.2M.



Services for which a development charge is levied are also subject to the 10-year historical service average cap. Municipalities and transit supporters have suggested that transit levies be based on a peak or forward- looking service average. This would potentially allow municipalities to better co-ordinate transit infrastructure with planned growth.

Did you know?

A number of recent reports (i.e. Metrolinx Investment Strategy, Environmental Commission of Ontario and Environmental Defence) have advocated for amendments to the *Development Charges Act, 1997*, reflecting those made for the Toronto-York Subway Extension, for all transit projects in Ontario.

Transparency and Accountability

Public input

Municipalities must pass a development charge by-law within one year of the completion of a background study. Before passing the by-law, a municipality is required to hold at least one public meeting, making both the by-law and background study publicly available at least two weeks before the meeting.

The content of a by-law may be appealed to the Ontario Municipal Board (OMB) within 40 days of passing, after which the imposition of a specific development charge may be challenged within 90 days of the charge payable date. The OMB has broad powers to change or cancel (repeal) a by-law or to make the municipality do so. A number of appeals that are launched are settled between the parties involved before the Board makes a decision. If the Board orders a change to the by-law, it is considered to have come into force on the day that the by-law was passed. The municipality may then need to refund any amounts owed to anyone who paid the higher charge, with interest, within 30 days of the decision.

Reserve Funds

Municipalities must establish an “obligatory” reserve fund for each service for which a development charge is collected. The development charge funds must be spent on the infrastructure projects for which they were collected. In 2011, municipalities collected \$1.3B in development charges and had \$2.7B in obligatory reserves funds.

Most development charges are collected for non-discounted services with roads, water and wastewater infrastructure accounting for the largest share.

Each year the treasurer of a municipality is required to submit a development charge statement to council

and to the Minister of Municipal Affairs and Housing, providing a detailed account of activities for each reserve fund. The statement must show the connection between the infrastructure project and the reserve fund supporting it.

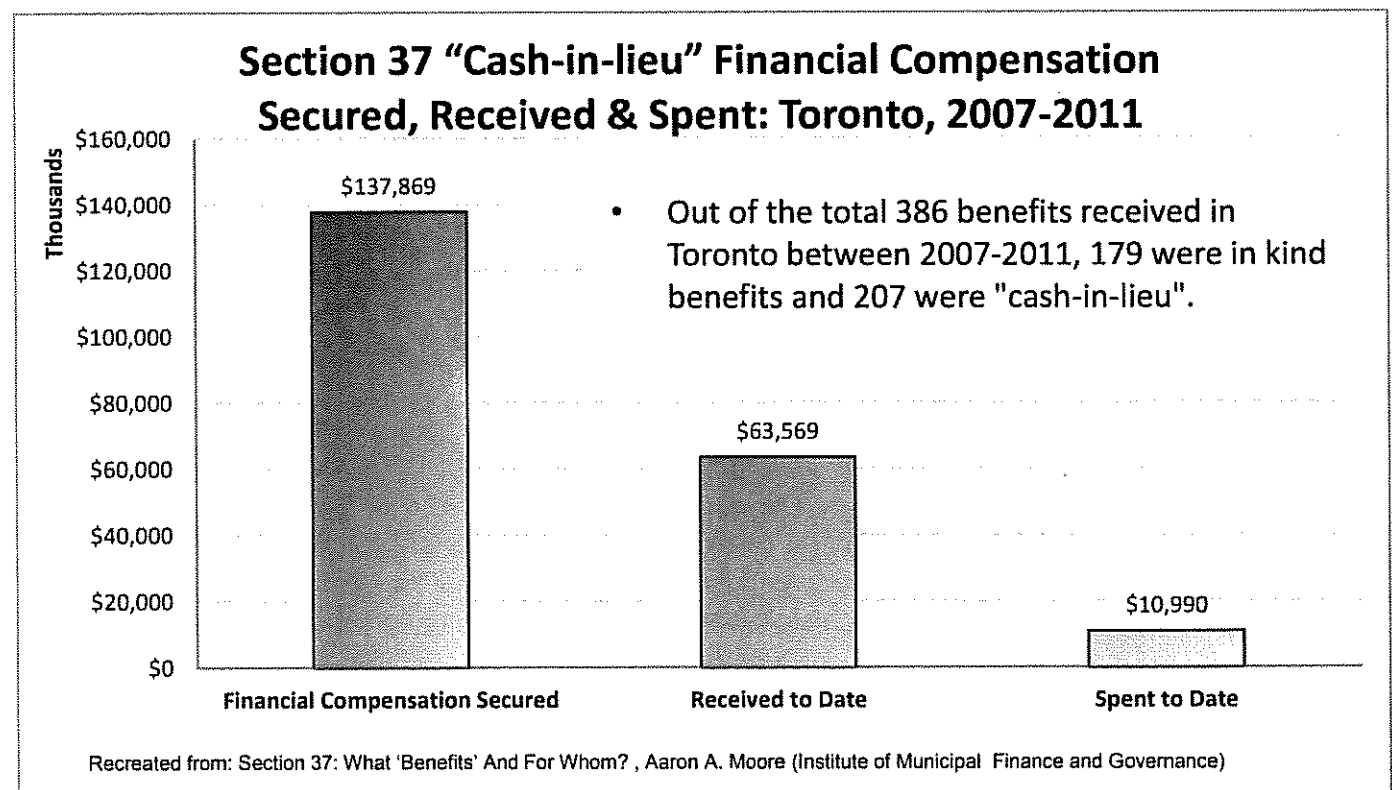
Despite the thoroughness of the development charge background study and the requirement to prepare and submit an annual development charge reserve fund statement, questions have arisen as to whether or not the funds collected are spent on projects for which they were intended.

Planning Act: Section 37 (Density Bonusing) and Parkland Dedication

The **Planning Act** allows municipalities to receive "benefits" from development in exchange for allowing greater density (more compact form of development) and to require developers to contribute land for parks or other recreational use.

Section 37 (Density Bonusing)

Section 37 (Density Bonusing) allows local municipal councils to authorize increases in the height and density of development beyond the limits set out in their zoning by-law, provided they have enabling official plan policies, in exchange for providing specified facilities, services or matters, such as the



provision of public art, or affordable housing or other matter provided on or in close proximity to the

property being developed.

Municipalities often undertake planning exercises through extensive public consultation to identify how their communities will grow, resulting in the adoption of official plans to reflect their vision. The application of section 37 (Density Bonusing) may be seen as departing from that approved community vision. Consequently, the application of section 37 (Density Bonusing) has sometimes been characterized as being ad hoc or unstructured. As well, questions have been raised about whether the payments are being used for the intended purpose and whether the appropriate accountability and reporting measures are in place.

Parkland Dedication

Municipalities have the authority to require that a developer give a portion of the development land to a municipality for a park or other recreational purposes either at the plan of subdivision approval or consent approval stage (*Planning Act*, subsection 51.1(1)) or as a condition of development or redevelopment of land (*Planning Act*, section 42). Instead of giving over the land, the municipality may require the developer to pay an amount of money equal to the value of the land that would have otherwise been given. This is known as cash-in-lieu.

In addition, municipalities have the ability to require an alternative parkland dedication rate, which is based on the principle that parkland dedicated should bear some relation to population and need. Under subsection 42(3) of the *Planning Act*, an alternative parkland dedication rate of up to a maximum of 1 hectare per 300 dwelling units may be imposed. In order to use this, a municipality's official plan must have specific policies dealing with the use of the alternative parkland dedication rate.

The alternative parkland dedication rate was enacted to correct an inequity because parkland conveyances based on a percentage of lot area did not provide enough parkland for higher density residential areas. The philosophy of setting an upper limit for the Alternative Rate enables municipalities to set their own standards in relation to clearly demonstrated needs. These needs must be reflected in the goals, objectives and policies of the official plan to avoid unjustified use of higher conveyance standards.

Concerns have been identified that the alternative parkland dedication rate in the *Planning Act* acts as a barrier to intensification and makes it more difficult to reach the intensification goals of the Provincial Policy Statement, set out in the Growth Plan for the Greater Golden Horseshoe.

Overall, concerns have been raised that there is a need for more accountability and transparency with section 37 (Density Bonusing) and parkland dedication.

Voluntary Payments

Several municipalities require developers to make “voluntary payments” to help pay for infrastructure costs over and above development charges. Municipalities get additional funding from the development community to help finance capital projects so as to potentially reduce the impact of growth on tax rates and the municipality’s debt capacity limits.

Economic Growth

Many stakeholders view the use of development charges as either a help or hindrance to economic growth in communities. Most of the discussion has focused on housing affordability and the development of transit, as mentioned above.

The housing sector plays a significant role in economic growth in Ontario. This is a key sector that stimulates the economy through linkages with other sectors, and is a leading employer in the Province. A healthy housing sector can have positive economic and employment impacts in many other sectors. For example, new home construction can relate to expenditures for building materials, architectural services, construction crews and contractor services, in addition to other additional costs such as landscaping improvements, new furniture and moving expenses. Incomes generated from employment in this sector have a direct impact on consumer spending.

Did you know?

Based on information obtained from Will Dunning Inc. Economic Research, 322,100 jobs and \$17.1 B in earnings resulted from the 76,742 housing starts in Ontario in 2012. In the same year, 25,416 Toronto housing starts created 89,000 jobs and resulted in \$4.7 B in wages.

Housing Affordability

Since the **Development Charges Act, 1997** was passed, development charges have risen steadily, leading some people to suggest development charges are having a direct impact on rising housing prices. Housing price increases can be due to several factors including (but not limited to) the general health of the economy, income levels, availability of financing, interest rate levels, cost of construction, material and land values.

For example, from 1998 to 2009 the composite Construction Price Index for seven census metropolitan areas across Canada rose by 53.5 per cent. The index for Toronto has increased by 57.2 per cent and for Ottawa by 52.6 per cent. Subsequently, increasing construction costs would be one factor leading to

rising development charge rates.

Analysis of development charges for Ontario's 30 largest municipalities shows rates, in some cases, have risen substantially since 1997 (see Appendix Figure 3). Most of the municipalities experiencing larger than average increases in development charges are also ones which have experienced high levels of growth.

Despite the increases, development charges as a percentage of the cost of a new home have remained somewhat stable (5 per cent to 9 per cent) since the Act first came into force. (See Appendix Figure 4)

Non-residential Development Charges

The Act also allows municipalities to levy charges for non-residential development. The way in which municipalities treat non-residential development charges may play a significant role in the attraction of industrial, commercial and institutional development. Such development can act as a lever in informing the location of employment/employers, residential neighbourhoods, transportation networks, and transit.

Some municipalities provide exemptions for particular types of non-residential development to address job creation and growth in their municipality. For example, the Cities of Toronto and Kingston exempt development charges for all industrial development and the Town of Kincardine waives the development charges for all major office development.

Growth, intensification and the Development Charges Act, 1997

Over the last decade, two provincial plans have been released that promote the importance of incorporating intensification in growth planning. The Provincial Policy Statement, integrates all provincial ministries' land use interests and is applicable province-wide, states that there should be sufficient land made available through intensification and redevelopment and, if necessary, designated growth areas, to accommodate an appropriate range and mix of employment opportunities, housing and other land uses.

The Growth Plan for the Greater Golden Horseshoe, which was developed to better manage growth in the Greater Golden Horseshoe through compact, complete communities, support for a strong economy, efficient use of land and infrastructure, the protection of agricultural land and natural areas, seeks to focus growth within intensification areas. Intensification areas include urban and intensification growth centres, intensification corridors, major transit stations areas, infill/redevelopment/brownfield sites and the expansion or conversion of existing buildings and greyfields.

The regional transportation plan, The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Area (GTHA), released by Metrolinx in 2008, is consistent with the implementation of these

provincial policies by helping to shape growth through intensification.

Under the current ***Development Charges Act, 1997***, municipalities may apply development charges in ways that best suit their local growth-related needs and priorities. A number of municipalities use local development charges as an incentive for directing land and building development through reductions and exemptions of development charges in areas such as downtown cores, industrial and commercial areas and in transit nodes and corridors, where higher-density growth is desired.

Municipalities may also set area-rated development charges that reflect the higher cost of infrastructure needed to service lands that are distantly located outside of higher density, serviced areas. These charges reflect a localized need for development-related capital additions to support anticipated development.

There is significant interest in using development charges more strategically by discounting development charges where growth and development is preferred, while setting maximum payable charges in areas outside of existing service areas (e.g. greenfields).

Questions have been raised over whether this strategy is being fully utilized to achieve intensification in areas such as transit, nodes and corridors. There is concern that levying development charges generally halts growth in areas targeted for intensification and that waiving development charges in these areas should be considered to stimulate development.

Did you know?

To steer growth and encourage greater density, the City of Ottawa levies a lower development charge (\$16,447 per Single Detached Unit) for development within the inner boundary of the city's designated Greenbelt than areas beyond the outer boundary of the Greenbelt (\$24,650 per Single Detached Unit) .

ISSUES AND QUESTIONS TO DISCUSS

The Development Charges Process

1. Does the development charge methodology support the right level of investment in growth-related infrastructure?
2. Should the Development Charges Act, 1997 more clearly define how municipalities determine the growth-related capital costs recoverable from development charges? For example, should the Act explicitly define what is meant by benefit to existing development?
3. Is there enough rigour around the methodology by which municipalities calculate the maximum allowable development charges?

Eligible Services

4. The Development Charges Act, 1997 prevents municipalities from collecting development charges for specific services, such as hospitals and tourism facilities. Is the current list of ineligible services appropriate?
5. The Development Charges Act, 1997, allows municipalities to collect 100% of growth-related capital costs for specific services. All other eligible services are subject to a 10% discount. Should the list of services subject to a 10 % discount be re-examined?
6. Amendments to the Development Charges Act, 1997 provided Toronto and York Region an exemption from the 10 year historical service level average and the 10% discount for growth-related capital costs for the Toronto-York subway extension. Should the targeted amendments enacted for the Toronto-York Subway Extension be applied to all transit projects in Ontario or only high-order (e.g. subways, light rail) transit projects?

Reserve Funds

7. Is the requirement to submit a detailed reserve fund statement sufficient to determine how municipalities are spending reserves and whether the funds are being spent on the projects for they were collected?
8. Should the development charge reserve funds statements be more broadly available to the public, for example, requiring mandatory posting on a municipal website?
9. Should the reporting requirements of the reserve funds be more prescriptive, if so, how?

Section 37 (Density Bonusing) and Parkland Dedication Questions

10. How can Section 37 and parkland dedication processes be made more transparent and accountable?
11. How can these tools be used to support the goals and objectives of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe?

Voluntary Payments Questions

12. What role do voluntary payments outside of the Development Charges Act, 1997 play in developing complete communities?
13. Should municipalities have to identify and report on voluntary payments received from developers?
14. Should voluntary payments be reported in the annual reserve fund statement, which municipalities are required to submit to the Ministry of Municipal Affairs and Housing?

Growth and Housing Affordability Questions

15. How can the impacts of development charges on housing affordability be mitigated in the future?
16. How can development charges better support economic growth and job creation in Ontario?

High Density Growth Objectives

17. How can the Development Charges Act, 1997 better support enhanced intensification and densities to meet both local and provincial objectives?
18. How prescriptive should the framework be in mandating tools like area-rating and marginal cost pricing?
19. What is the best way to offset the development charge incentives related to densities?

SUBMIT YOUR COMMENTS AND IDEAS

You are invited to share your comments and ideas by **January 10, 2014**. You can:



Share your views at a meeting.



Submit your comments through an online version of this guide at
www.ontario.ca/landuseplanning

Environmental Bill of Rights Registry Number: 012-0281
www.ebr.gov.on.ca/



Email a submission to DCAconsultation@ontario.ca



Write to us at:

Development Charge Consultation
Ministry of Municipal Affairs and Housing
Municipal Finance Policy Branch
777 Bay Street, 13th Floor, Toronto, ON M5G 2E5

Preparing an Email or Mail Submission

Please structure your submission as answers to the question listed above or submit responses in each of the theme areas.

Personal Information

Personal information you provide is collected under the authority of the *Ministry of Municipal Affairs and Housing Act*.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Appendix

Figure 1

Potential Development Charges Recoverable as a Percentage of Estimated Gross Capital Costs

Municipality	Total All Services	B.E.D. **	GR Net Capital Costs	BED/Total	NET/Total
Brampton *	\$ 1,678,874,000.00	\$ 112,475,000.00	\$ 1,566,399,000.00	7%	93%
Clarington	\$ 254,239,710.00	\$ 20,571,670.00	\$ 201,312,480.00	8%	79%
Oakville*	\$ 823,629,200.00	\$ 107,088,800.00	\$ 647,754,800.00	13%	79%
Ajax	\$ 179,644,683.00	\$ 14,802,562.00	\$ 132,178,950.00	8%	74%
Vaughan*	\$ 643,512,000.00	\$ 36,829,000.00	\$ 460,066,400.00	6%	71%
Mississauga	\$ 989,730,700.00	\$ 30,593,000.00	\$ 700,515,500.00	3%	71%
Whitby	\$ 440,855,969.00	\$ 80,927,290.00	\$ 272,745,844.00	18%	62%
Kitchener	\$ 390,672,800.00	\$ 89,942,800.00	\$ 228,426,500.00	23%	58%
Hamilton	\$ 1,781,878,533.00	\$ 631,516,015.00	\$ 1,033,155,431.00	35%	58%
London	\$ 1,729,685,700.00	\$ 227,041,600.00	\$ 967,697,900.00	13%	56%
Markham	\$ 1,494,277,927.00	\$ 70,414,681.00	\$ 818,602,146.00	5%	55%
Oshawa	\$ 193,128,184.00	\$ 11,511,939.00	\$ 104,370,560.00	6%	54%
Guelph	\$ 404,908,107.00	\$ 95,688,376.00	\$ 211,504,251.00	24%	52%
Kingston	\$ 190,705,912.00	\$ 42,827,072.00	\$ 79,647,807.00	22%	42%
Greater Sudbury*	\$ 221,107,300.00	\$ 85,916,000.00	\$ 90,886,500.00	39%	41%
Burlington	\$ 229,077,092.00	\$ 45,917,472.00	\$ 90,150,635.00	20%	39%
Barrie	\$ 748,574,393.00	\$ 128,057,074.00	\$ 287,251,520.00	17%	38%
Pickering	\$ 303,321,897.00	\$ 84,875,990.00	\$ 55,980,222.00	28%	18%
Toronto	\$ 8,728,196,882.00	\$ 2,469,202,375.00	\$ 1,560,139,984.00	28%	18%
Total	\$ 21,426,020,989.00	\$ 4,386,198,716.00	\$ 9,508,786,430.00	20%	44%
Peel Reion	\$ 5,409,160,201.00	\$ 347,247,987.00	\$ 4,422,521,625.00	6%	82%
Halton Region	\$ 4,393,600,000.00	\$ 598,600,000.00	\$ 3,576,100,000.00	14%	81%
Durham Region	\$ 3,941,500,000.00	\$ 908,900,000.00	\$ 2,505,300,000.00	23%	64%
York Region	\$ 14,368,403,527.00	\$ 1,572,260,757.00	\$ 7,134,128,076.00	11%	50%
Total	\$ 28,112,663,728.00	\$ 3,427,008,744.00	\$ 17,638,049,701.00	12%	63%
Total ST/LT/Regions	\$ 49,538,684,717.00	\$ 7,813,207,460.00	\$ 27,146,836,131.00	16%	55%

Note: Based on information contained in current municipal background studies. *Net of Subsidies. ** Benefit to Existing Development
To determine a development charge, a municipality must first do a background study. The background study provides a detailed overview of a municipality's anticipated growth, both residential and non-residential; the services needed to meet the demands of growth; and a detailed account of the capital costs for each infrastructure project needed to support the growth.

The chart is designed to show the how much revenue municipalities recover from development charges based on the infrastructure capital costs related for municipal services considered in the background study. Using Kingston as an example, the background study identified capital costs of \$190.7 M. After making the deductions and adjustments required by the legislation Kingston was able to recover \$79.6 M from development charges representing 42% of all capital costs identified in the background study. *Benefit to Existing Development (B.E.D.)* is highlighted to show the deduction municipalities must make to account for the benefit growth-related infrastructure provides to existing residents.

Source: Based on information contained in current municipal background studies.

Figure 2

Determining Recoverable Development Charge Costs (\$ Millions)

All Services								
Municipality	Gross	Ineligible	B.E.D.	Post Period	Grants	10%	Total	Net/Gross
	Expenditure	Service Level		Capacity		Discount	Net	%
Toronto	\$8,728.20	\$910.70	\$2,469.20	\$762.80	\$2,956.10	\$69.20	\$1,560.10	18%
Uxbridge	\$26.00	\$11.20	\$3.00			\$0.34	\$11.40	44%
Region of Waterloo	\$4,393.0	\$10.10	\$598.60	\$203.90		\$4.80	\$3,576.2	81%
Transit								
Municipality	Gross	Ineligible	B.E.D.	Post Period	Grants	10%	Total	Net/Gross
	Expenditure	Service Level		Capacity		Discount	Net	%
Toronto	\$1,485.00	\$531.10	\$120.50	\$27.20	\$475.80	\$33.10	\$297.60	20%
Region of Waterloo	\$100.30	\$11.80	\$66.20			\$2.20	\$20.10	20%

To determine a development charge, a municipality must first do a background study. The background study provides a detailed overview of a municipality's anticipated growth, both residential and non-residential; the services needed to meet the demands of growth; and a detailed account of the capital costs for each infrastructure project needed to support the growth.

The chart above indicates the various deductions and adjustments municipalities must make to the capital costs for each infrastructure project needed to support the growth. Using Uxbridge as an example, the municipality is able to collect 44% of the capital costs identified in the background study from development charges.

Source: Based on information contained in current municipal background studies for Toronto, Uxbridge and Region of Waterloo

Figure 3

Historical Perspectives of Municipal Development Charges

Municipality	2nd Gen (at enactment)	3rd Gen (at enactment)	2013	2013/2Gen
Greater Sudbury	\$2,450.00	\$3,079.00	\$14,829.00	505%
Mississauga	\$3,333.53	\$6,442.56	\$16,887.11	407%
Toronto	\$4,370.00	\$12,366.00	\$19,412.00	344%
London	\$5,152.00	\$13,714.00	\$17,009.00	230%
Brantford	\$4,763.00	\$9,305.00	\$15,017.00	215%
Markham	\$7,170.00	\$10,174.00	\$22,357.00	212%
Cambridge	\$4,322.04	\$7,322.20	\$11,788.00	173%
Kingston	\$5,608.00	\$9,490.00	\$15,138.00	170%
Oakville T	\$9,620.00	\$12,044.00	\$25,530.00	165%
Barrie	\$13,728.00	\$26,060.00	\$30,707.00	124%
Guelph	\$11,721.00	\$24,053.00	\$24,208.00	107%
Waterloo City	\$5,750.00	\$13,372.00	\$11,753.00	104%
Windsor	\$9,006.00	\$15,787.00	\$17,792.00	98%
Clarington	\$8,377.00	\$14,623.00	\$15,518.00	85%
Brampton	\$14,029.59	\$24,415.09	\$25,518.97	82%
Richmond Hill	\$7,002.00	\$11,654.00	\$12,152.00	74%
Kitchener (Suburban)	\$5,634.00	\$9,887.00	\$9,662.00	71%
Vaughan	\$7,922.00	\$12,284.00	\$12,715.00	61%
Whitby	\$7,722.00	\$10,208.00	\$12,058.00	56%
Ajax	\$7,709.00	\$11,631.00	\$12,029.00	56%
Ottawa (inside Greenbelt)	\$10,566.00	\$15,446.00	\$16,447.00	56%
Hamilton	\$7,887.00	\$10,014.00	\$10,445.00	32%
Pickering	\$7,813.00	\$9,694.00	\$10,114.00	29%
Oshawa	\$6,232.00	\$6,920.00	\$7,256.00	16%
Burlington	\$7,075.00	\$7,538.00	\$8,018.00	13%
Chatham-Kent	\$1,013.00	\$4,640.00	NA	
Average	\$4,646.07	\$8,986.60	\$16,554.64	139%

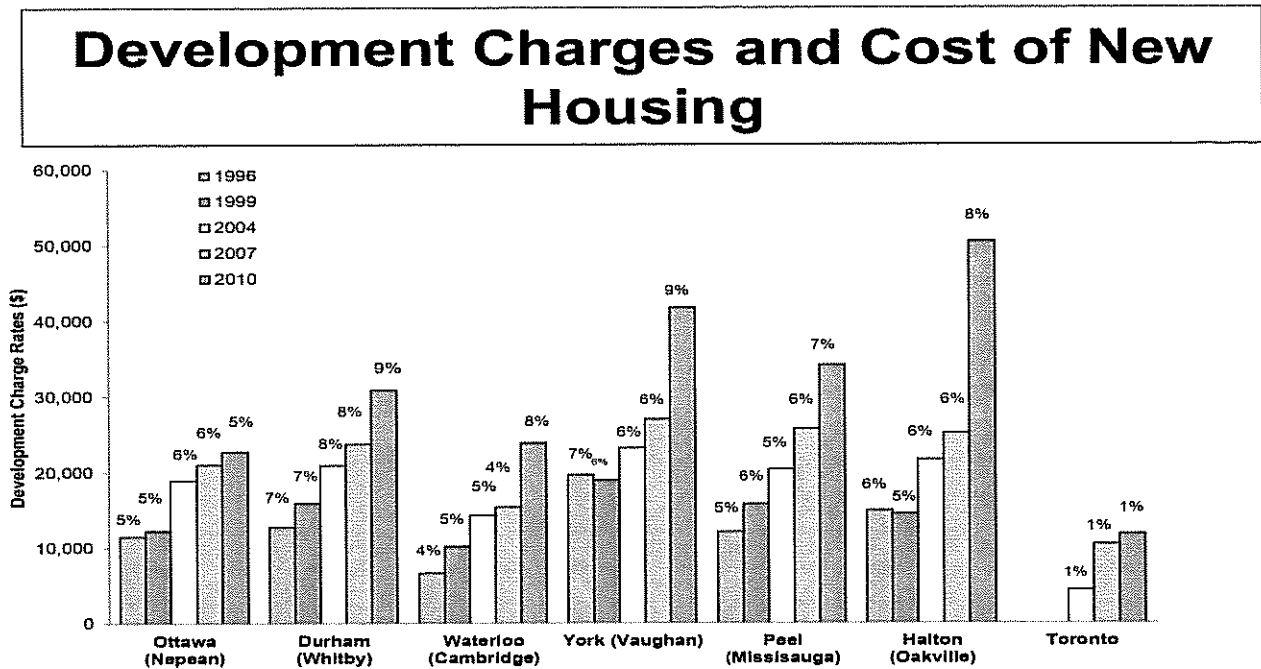
Rates are those for Single Detached units.

When the current legislation came into force municipalities that wished to levy a development charge were required to enact a development charge by-law. The initial by-laws are referred to as first generation by-laws, generally enacted in 1998 to 2000 period.

The legislation requires municipalities to undertake a new background study at least once every five years and enact a new by-law based on the new study. In the 2003 to 2005 period municipalities began the process of preparing new background studies and new by-laws. These by-laws are referred to as second-generation. Third-generation by-laws represent the renewal process municipalities undertook in the 2008 to 2010 period.

Source: Based on information contained in current municipal background studies for Toronto, Uxbridge and Region of Waterloo

Figure 4



Note: Toronto data for 1996 and 1999 was not available.

The chart indicates the impact development charge have on the cost of new housing. For example, for Mississauga development charges have historically comprised 5 to 7 percent of the cost of a new house.

Source: Information for 1996, 1999, 2004 was compiled for the Ministry by CN Watson and Associates. Data for 2007 and 2010 was prepared by the Ministry of Municipal Affairs and Housing based on municipal development charge by-laws and housing price data from CMHC.