



 **Watson
& Associates**
ECONOMISTS LTD.

Development Charge Principles Framework – Draft Amendments

City of Moncton

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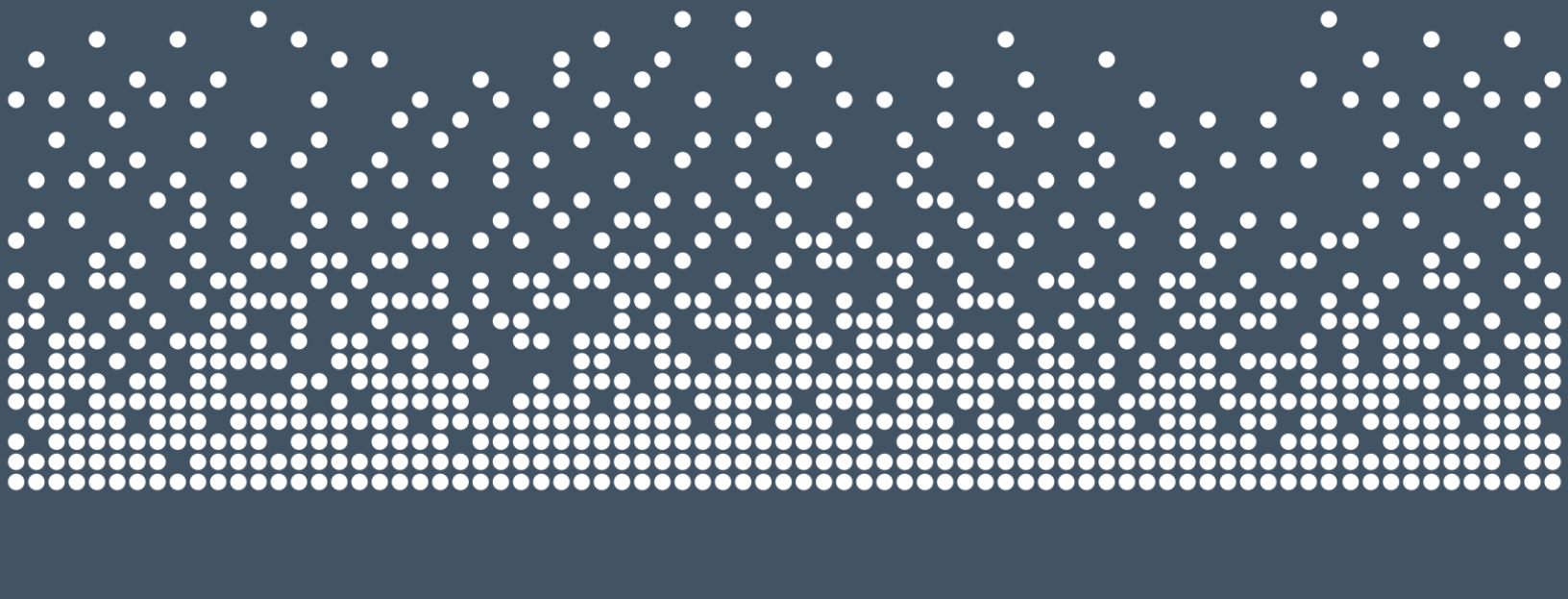
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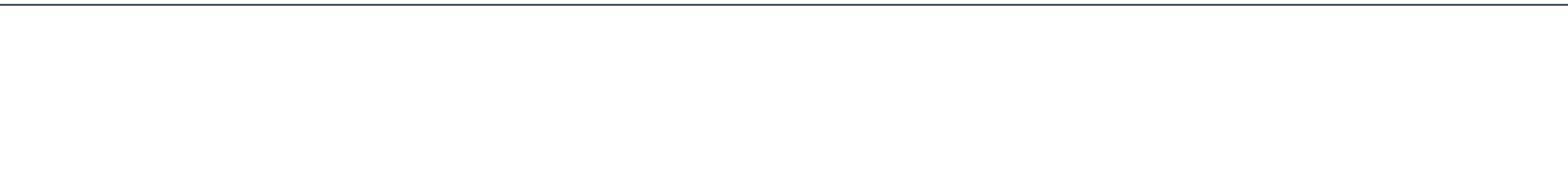


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Report





Chapter 1

Introduction

1. Introduction

1.1 Purpose of this Document

Many municipalities across Canada seek to recover the cost of growth-related infrastructure by imposing capital charges. These charges are referred to as development charges, development cost charges, off-site levies, or impact fees; but all seek to recover the capital costs related to providing infrastructure for growth. Recently in New Brunswick, the province adopted the new *Community Planning Act, 2017* (put into effect on January 1, 2018), which now allow municipalities to implement development charges.

Prior to adopting the new Act, the City recovered some infrastructure costs from developing landowners through capital charges through subdivision charge areas under the Subdivision By-law, subdivision and development agreements. Although there are transitional provisions for existing subdivision charge areas, the legislative authority for the municipality to implement new charge areas is now prescribed under Division G, Development Charge By-laws.

This Principles Framework is based on consultations with City staff and administration, local stakeholders, members of the public, and representatives of the Province. This principles document provides the framework to implement development charges on new development, creating the need for new or expanded facilities and infrastructure, in the City of Moncton.

This document is designed to set out sufficient background on the legislation (Section 2), Moncton's proposed principles regarding the collection of capital costs related to growth (Chapter 3), the approach to the calculation of the charge (Chapter 4) and the post-adoption implementation requirements (Chapter 5), which are critical to the successful application of the new principles.

1.2 Summary of the Process

In 2019, the City retained Watson & Associates Economists Ltd. (Watson) to assist in preparing a development charge framework.

This framework document sets out the overall guiding principles for City staff and administration to follow in preparing development charge by-laws (and future amendments) under the new *Community Planning Act, 2017*.

This framework was intended to be a living document that is updated as needed, particularly when amendments are made to the City’s original DC by-law. As such, the framework is being updated as part of the 2023 DC study process for the Marriott Drive DC Area.

1.3 Capital Funding Sources

Development charges are one of many revenue sources a municipality can use to fund capital works. The following table provides a number of the more common sources of internal and external funding along with impacts on the operating budget and who is affected by this financing method:

Financing Sources	Operating Budget Impact	Who is Affected
<u>Internal Sources:</u>		
Operating Budget Transfers	“In year” provision within the operating budget	Current year taxpayer
Reserves – General	Past contributions from operating budget	Past taxpayers, ratepayers
Reserves – Off-site Levies	No impact on operating budget	Developers, Builders and Developing Landowners
Reserves - Parkland	No impact on operating budget	Developers, Builders and Developing Landowners
<u>External Sources:</u>		
Grants	Nil	Provincial/Federal
Public/Private Partnership (3P)	Usually has direct impact on future operating budgets, similar to debt	Future tax and rate payers
Fundraising	Nil	Community Groups/ Residents
Provincial Legislation (e.g. local improvement, drainage, <i>Local Governance Act</i>)	Any direct non-recoverable costs to be paid by operating budget	Generally, impacts the benefiting landowner
Debt Financing	Future operating budgets to pay debt charges	Future tax and rate payers

Chapter 2

Discussion of

Applicable Legislation



2. Legislative Framework

2.1 Introduction

On January 1, 2018, the old *Community Planning Act, 1973* was repealed and replaced with the new *Community Planning Act, 2017*. Under the old Act, municipalities were empowered to collect capital charges under “Payment for Service” (Section 45). This was the primary mechanism for the cost recovery of public services including “... streets, curbing, sidewalks, culverts, drainage ditches, water and sewer lines and others as may be required by the By-law for that class of subdivision” (paragraph 42(3)(i)). This section was enabled through the City’s Subdivision By-law # Z-302, allowing development levies on the future subdivision of serviced lands as seen in subsection 5(2) below:

5. Subdivision Agreements

5(2) Where any subdivision being proposed benefits from services previously constructed, whether by the City or another person, the development officer shall not approve the plan unless the person proposing the subdivision pays or agrees to pay to the City or another person an amount equal to the initial cost of such services or an amount equal to his proportional share, calculated as a percentage of the area benefiting from said previously installed services.

The transition to the new Act removed the previous cost recovery provisions under Section 45 of the old Act. Transitional provisions are included under Section 150 of the new Act (“Payments under Section 45 of the former Act”), as follows:

Payments under Section 45 of former Act

150 Despite any inconsistency with a provision of this Act, if payments are still due or owing under the provision of Section 45 of the former Act immediately before the coming into force of this Section with respect to an amount equal to the initial cost of the facilities, or equal to the share of the cost required to be paid by a person, Section 45 of the former Act is continued as if that Act was not repealed.

Moving forward, the primary cost recovery mechanism under the new Act is the development charge by-law, which is enabled under Division G. Subsection 91(2) of the new Act outlines where costs may be recovered through a development charge by-law.



2.2 Discussion on Applicable Legislation

The following details the current legislation that is in place for New Brunswick municipalities to implement charges for the collection of growth-related capital funding.

Community Planning Act, 2017 – Division G – Development Charge By-laws

This section of the *Community Planning Act, 2017* provides a municipality the authority to enact a development charge by-law which may provide for the implementation and payment of a development charge in respect of land that is to be developed or subdivided and authorize an agreement to be entered into in respect of the payment of a charge.

As per subsection 91(2) of the *Community Planning Act, 2017*, development charges may be used only for capital costs (in whole or in part) with respect to the following:

- (a) New or expanded facilities for the supply and distribution of water,
- (b) New or expanded facilities for the collection, treatment, and disposal of sewage,
- (c) New or expanded facilities for the provision of storm water management,
- (d) New or expanded roads, sidewalks and trails required for or impacted by a subdivision or development,
- (e) New or expanded streets,
- (f) New traffic signs and signals and new or expanded transit facilities,
- (g) Land required for or in connection with any facilities described in paragraphs (a) to (f); or
- (h) For any other purpose referred to in the regulations.

The provincial regulation governing development charges was provided in draft form, which underwent a 30-day consultation period (ended October 2, 2019). The City, in conjunction with Watson & Associates Economists Ltd., provided feedback to the province on this regulation.

It is required that any development charges collected must be paid into a special account and the money in that account is to be expended by the Council for the specific purposes identified above. No development charge by-law is valid unless:

- The proper notice of the public by-law is provided (section 111 of the *Community Planning Act, 2017*); and



- The certified copy of the by-law that bears the approval of the Minister is filed in the land registration office (paragraph 112 (1)(b) of the *Community Planning Act, 2017*).

2.3 Servicing Requirements

To understand how the above legislation can be applied, a discussion with respect to the responsibility for infrastructure is provided herein. Further details regarding the City's Principles Framework are provided in Chapter 3.

Section F of the *Community Planning Act, 2017* outlines the creation and application of subdivision by-laws. Paragraph 75 (1)(d) provides that as a condition of approval of a subdivision plan that, if entry is gained to the subdivision by means of an existing street or other access, the developer shall:

- (i) *Make provision to bring the existing access to the same standard as required for streets within the subdivision; or*
- (ii) *Contribute to the cost of work referred to in subparagraph (i) to the extent required for streets within the subdivision under paragraph (i), provided the amount contributed per linear metre for the access does not exceed the cost to the person per linear metre for streets within the subdivision or, if the plan does not provide for the laying out of streets to be publicly owned, the average cost per linear metre for subdivision streets within the local government constructed during the preceding 12 month.*

As per subparagraphs 75(1)(f)(i) and (g), a subdivision by-law may also set aside land for public purposes in an amount not exceeding 10% of the area of the subdivision; or provide cash in lieu of setting aside land, not exceeding 8% of the market value of land in the subdivision, exclusive of lands for public streets.

Further, as per paragraph 75(1)(i), a subdivision by-law may require a person proposing to subdivide land to provide within the subdivision or contribute to the cost of the subdivision to the extent required by the by-law, facilities, including streets, curbing, sidewalks, culverts, drainage ditches, water and sewer lines and others that the by-law for that class of subdivision requires.



These items, which are the responsibility of the developing landowner to construct, would not be included in the development charge calculation and by-law. All remaining infrastructure items over-and-above these may be included in a development charge by-law.

Chapter 3

City of Moncton

Development Charge

Principles Framework



3. City of Moncton Development Charge Principles Framework

3.1 Overview

This chapter provides for the Principles Framework that the City will utilize in preparation of a draft a development charge by-law (and future amendments). As noted in Chapter 2, a developer will be required to construct various infrastructure as required under the subdivision by-law. Any infrastructure over-and-above what a developing landowner is responsible for may be provided in a development charge by-law. The City proposes to allocate the infrastructure costs into two categories:

1. **Local Cost Sharing Development Charges (LCSDC)** – These charges will be used when localized infrastructure is required to support new development in the area and said infrastructure “fronts” a set of properties (e.g. roads, sidewalks, watermains, sanitary sewer). These charges will be based on the proportionate share of frontage provided by each property.
2. **Area Development Charges (ADC)** – These charges will be used when infrastructure benefits a broader area of development. These charges will be based on the development land areas benefitting from the infrastructure.

Subsection 3.2 provides a table that delineates the cost recovery mechanisms based on the eligible infrastructure type. This table will be used to guide the City in calculating development charges.

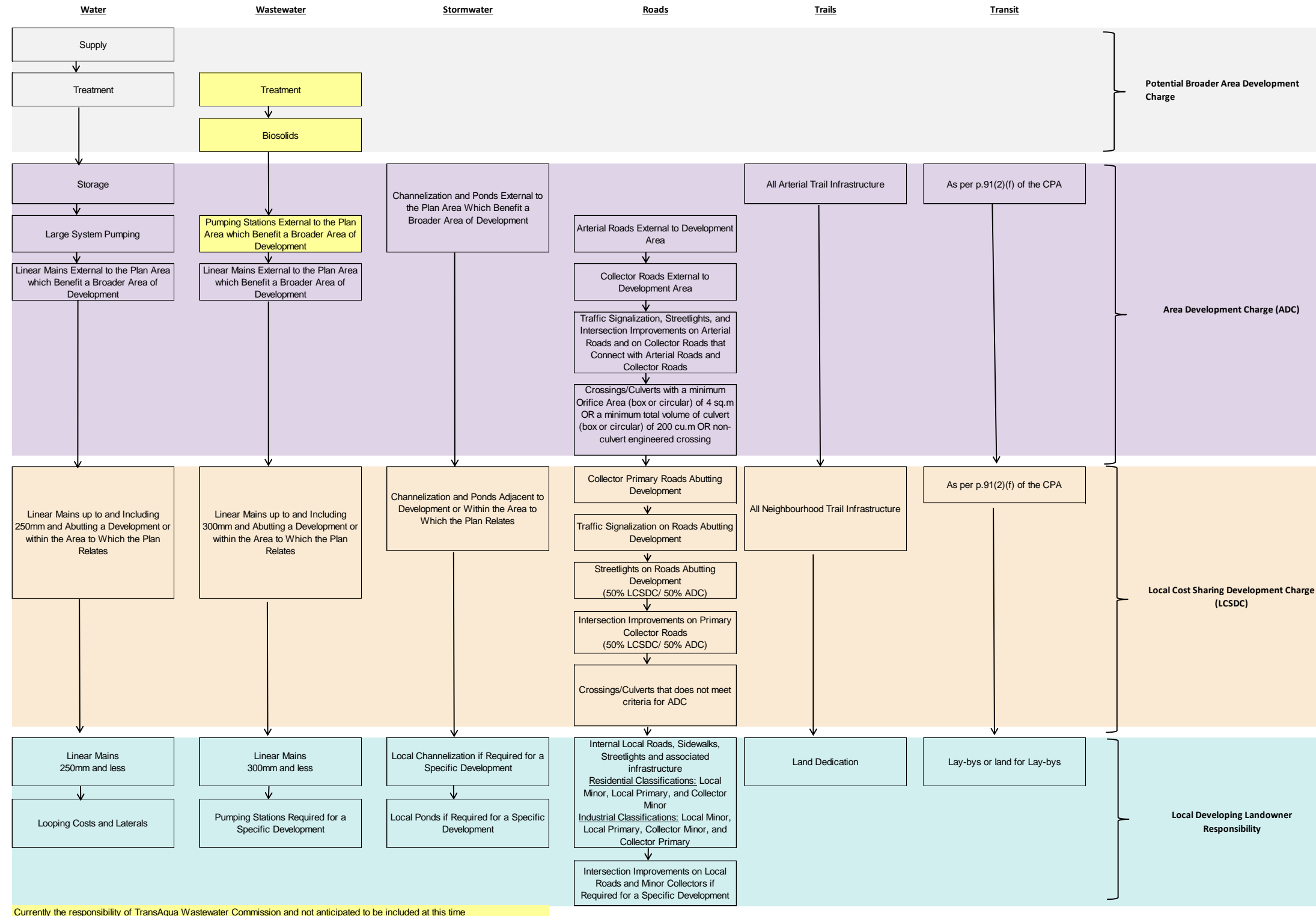
3.2 Hierarchy of Cost Recovery

The following table provides a hierarchy of the cost recovery methods to be utilized for each service. This table is provided diagrammatically in Figure 3-1.



Figure 3-1
Local Service Hierarchy Schematic - Revised

Example Allocations of Services Included in Capital Charges





Service Category	Capital Assets	Basis for Recovery
Local Developing Landowner Responsibility		
Water	<p>Linear mains 250mm and less: If required for specific development (note minimum pipe size could be higher if specifically required for an individual development), developer responsibility</p> <p>Looping Costs: Developer responsibility</p> <p>Laterals: Connecting laterals, developer responsibility</p>	Developer Responsibility to Construct/Provide
Wastewater	<p>Linear mains 300mm and less: If required for specific development (note minimum pipe size could be higher if specifically required for an individual development), developer responsibility</p> <p>Pumping Stations: If required for specific development, developer responsibility</p>	
Stormwater	<p>Channelization: If required for specific development; developer responsibility</p> <p>Stormwater Management Ponds: If required for specific development; developer responsibility</p>	
Roads	<p>Roads Internal to Development - Residential: (Classifications as per Street Classification Table in the City of Moncton Subdivision Development Procedures, Standards, and Guidelines) Local minor, Local Primary, and Collector Minor; sections of road across City-owned land taken as Land for Public Purposes (LfPP) through the subdivision approval process; developer responsibility</p> <p>Roads Internal to Development - Industrial: (Classifications as per Street Classification Table in the City of Moncton Subdivision Development Procedures, Standards, and Guidelines) Local minor, Local Primary, Collector Minor, and Collector Primary; sections of road across City-owned land taken as Land for Public Purposes (LfPP) through the subdivision approval process; developer responsibility</p> <p>Intersection Improvements – Local Roads and Minor Collectors: if required for specific development; developer responsibility</p>	
Trails	<p>Land for Trails: developer required to provide land for public purposes and may be required to grade the land prior to dedication</p> <p>Trail Infrastructure: In some instances, the developer may construct the trail infrastructure and would be provided a credit against the LCSDC</p>	
Transit	<p>Lay-bys: If developing in a new development area fronts onto an existing or planned transit route; developer responsibility. If developing in an existing development area fronts onto existing transit route; developer to provide land required for lay-by.</p>	
Local Cost Sharing Development Charge		
Water	<p>Linear mains up to and including 250mm and abutting a development or within the area to which the plan relates: If 250mm or less is required, the cost will be included in a LCSDC. Any oversizing costs will be included in the ADC.</p>	Development Charge calculated based on frontage of the benefitting properties. Any



Wastewater	Linear mains up to and including 300mm and abutting a development or within the area to which the plan relates: If 300mm or less is required, the cost will be included in a LCSDC. Any oversizing costs will be included in the ADC.	oversizing for other areas to be based on land area and collected by an ADC. (Except stormwater ponds)
Stormwater	Channelization adjacent to the development or within the area to which the plan relates: Include in LCSDC Stormwater Management Ponds adjacent to the development or within the area to which the plan relates: Include in LCSDC based on flow (i.e. land area) multiplied by the runoff coefficient.	
Roads	Roads Fronting and Abutting a Development – Residential: (Classifications as per Street Classification Table in the City of Moncton Subdivision Development Procedures, Standards, and Guidelines) Collector; sections of road across City-owned land taken as Land for Public Purposes (LfPP) through the subdivision approval process, the total cost of which is to be proportionally shared by the benefitting landowners based on the frontage of lands abutting the non LfPP sections of the road; include cost in LCSDC. Streetlights* on Roads Fronting and Abutting a Development: 50% of the costs are included in the LCSDC and 50% in the ADC Intersection Improvements – Primary Collectors: 50% of the costs are included in the LCSDC and 50% in the ADC Crossings/Culverts: if crossing/culvert does not meet criteria to include in ADC, then include in LCSDC	
Trails	Trail Infrastructure: All neighbourhood trails to be included in the LCSDC.	
Transit	Transit Facilities as per paragraph 91(2)(f) of the <i>Community Planning Act, 2017</i>	
Area Development Charge (ADC)		
Water	Linear mains external to the plan area which benefit a broader area of development and mains above 250mm: Include in an ADC	Development Charge calculated based on: Weighted Land Areas (Except stormwater ponds)
Wastewater	Linear mains external to the plan area which benefit a broader area of development and mains above 300mm: Include in an ADC Pumping Stations external to the plan area which benefit a broader area of development: Include in ADC	
Stormwater	Channelization external to the plan area which benefit a broader area of development: Include in ADC Stormwater Management Ponds external to the plan area which benefit a broader area of development: Include in ADC based on flow (i.e. land area) multiplied by the runoff coefficient.	
Roads	Roads External to Development: (Classifications as per Street Classification Table in the City of Moncton Subdivision Development Procedures, Standards, and Guidelines) include in ADC Traffic Signalization, Streetlights*, and Intersection Improvements on Arterial Roads and on Collector Roads that Connect with Arterial Roads: Include in ADC Crossings/Culverts: with a minimum Orifice Area (box or circular) of 4 sq.m OR a minimum total volume of culvert (box or circular) of 200 cu.m OR non-culvert engineered crossing – Include in ADC	
Trails	Trail Infrastructure: All arterial trails to be included in the ADC.	
Transit	Transit Facilities as per paragraph 91(2)(f) of the <i>Community Planning Act, 2017</i>	

*Note: The collection of development charges for streetlight infrastructure shall be limited to costs related to equipment that are non-reimbursable from NB Power. As per the City for Moncton Subdivision Development Procedures Standards and Guidelines, this includes, for example, decorative streetlights that are not rented to the City from NB Power



3.3 Other Principles

The following provides for other matters to be considered and included in development charge by-laws.

3.3.1 Application of Charges

- Local Services – Capital costs that are deemed local services are the responsibility of the developer to construct.
- Local Cost Sharing Development Charges – Capital costs that are deemed Local Cost Sharing Development Charges are to be calculated based on frontage of the benefitting properties. Any oversizing for other areas to be based on land area.
- Area Development Charges – Capital costs that are deemed Area Development charges are to be calculated based on land areas of benefitting properties weighted by average property density based on City zoning. The benefitting properties may be further weighted based on a suitable metric for each respective service:
 - Roads: based on average trip generation for each land-use category
 - Water: To be determined through further review
 - Wastewater: To be determined through further review
 - Stormwater: To be determined through further review
 - Trails: To be determined through further review
 - Transit: To be determined through further review

3.3.2 Indexing

- Indexing shall be based on Statistics Canada Non-residential Building Construction Price Index (Moncton Series).
- Indexing should occur on an annual basis, and must be done through amendment to the by-law

3.3.3 Imposition and Timing of Development Charges

The Development Charge By-law sets out the conditions for the imposition and timing of collecting DCs. Where there is conflict between this Principles Framework and the By-law, the latter shall prevail.

Sections 5 and 6 of the By-law read:



Imposition of development charge

5 Development charges listed in Schedule “C” shall be imposed and collected from an applicant prior to the approval of a subdivision plan by the development officer or the issuance of a development permit under the Zoning By-law.

Development charge agreement

6(1) Despite the imposition of the development charges herein, Council, by agreement, may give a credit towards a development charge in exchange for an applicant constructing services identified for growth in the City’s capital budget, at the applicant’s expense.

6(2) Council may consider entering into a development charge agreement providing for delayed payment for up to 50% of the development charge.

For example, if no DCs were collected at subdivision stage, the remaining balance would be required to be paid at the building/development permit issuance stage. The delayed payment provision via agreement under subsection 6(2) may be used in instances where the landowner requests that the imposition of the DC be distributed equally (50-50) at subdivision and building/development permit stages. However, where such agreement is not in place, the City shall collect the DCs at the first subdivision stage.

3.3.4 Establishment of Reserve Funds

- Establish reserve funds for each of the services identified in the by-law (e.g. water, wastewater, stormwater, roads, transit, and trails)

3.3.5 Categories of Development

- Residential development versus non-residential development

3.4 Definitions of Potential Eligible Capital Costs by Service

Since Division G of the *Community Planning Act, 2017* does not define capital costs, but is limited to the categories of recovery under subsection 91(2), the following section qualifies the infrastructure and facilities that make up each category and are thus intended to be recoverable capital costs under the by-law.



Water (*“new or expanded facilities for the supply and distribution of water”*)

- Linear Mains
- Service Laterals
- Water and Hydrant Valves
- Appurtenances
- Land
- Pumping
- Trunk Mains
- Storage
- Treatment
- Supply

Wastewater (*“new or expanded facilities for the collection, treatment, and disposal of sewage”*)

- Linear Mains
- Service Laterals
- Manholes
- Appurtenances
- Land
- Pumping
- Large Pumping (Trans Aqua)
- Large Trunk Mains (Trans Aqua)
- Biosolids (Trans Aqua)
- Treatment (Trans Aqua)

Stormwater (*“new or expanded facilities for the provision of storm water management”*)

- Linear Mains
- Service Laterals
- Swales
- Manholes
- Catch Basins
- Inlet/outlet Structures
- Appurtenances
- Channelization
- Stormwater Management Ponds



- Erosion Control Measures
- Land

Roads (*“new or expanded roads, sidewalks ... required for or impacted by a subdivision or development & new or expanded streets & new traffic signs and signals”*)

- Roads (Local, Collector, Arterial)
- Sidewalks (including Active Transportation Infrastructure)
- Streetlights*
- Intersection Improvements
- Turning Lanes
- Signalization/Traffic Control Systems
- Land
- Railings, Guardrails, and Fences
- Noise Attenuation Systems
- Crossings and culverts

*Note: The collection of development charges for streetlight infrastructure shall be limited to costs related to equipment that are non-reimbursable from NB Power. As per the City of Moncton Subdivision Development Procedures Standards and Guidelines, this includes, for example, decorative streetlights that are not rented to the City from NB Power

Trails (*“new or expanded ... trails required for or impacted by a subdivision or development”*)

- Trails
- Culverts, Ditches, and Bridges
- Land
- Benches
- Washrooms
- Landscaping
- Lights

Transit (*“new or expanded transit facilities”*)

- Lay-bys
- Signage
- Land
- Other facilities required for the development, as determined by the City, in accordance with paragraph 91(2)(f) of the *Community Planning Act, 2017*

Chapter 4

The Approach to the Calculation of the Charge



4. The Approach to the Calculation of the Charge

4.1 Introduction

This chapter addresses the methodology utilized in calculating a development charge in the City of Moncton. The methodology reflects similar methodologies utilized in other municipalities, subject to legislative requirements. The steps are illustrated schematically in Figure 4-1 for Local Cost Sharing Development Charges and in Figure 4-2 for Area Development Charges and follow the principles outlined in Chapter 3.

4.2 Services Potentially Involved

Division G of the *Community Planning Act, 2017* provides a municipality with the authority to enact a development charge by-law which may provide for the imposition and payment of a charge, to be known as a “development charge”, in respect of land that is to be developed or subdivided; and authorize an agreement to be entered into in respect of the payment of a charge. A development charge may be used to collect the capital costs related to water, wastewater, stormwater, transportation, trails, and transit infrastructure (as defined in Chapter 3).

A development charge by-law, and amendments thereto, enacted by the Council of the City of Moncton may include costs for some or all of the services identified above.

4.3 Increase in the Need for Service

The development charge calculation commences with an estimate of “the increase in the need for service attributable to the anticipated development,” for each service to be covered by the by-law. There must be some form of link or attribution between the anticipated development and the estimated increase in the need for service. The maximum amount that can be imposed and collected as a development charge shall be no more than the capital cost of the land, facilities or other infrastructure required for development, as determined by the City. While the need could conceivably be expressed generally in terms of units of capacity, the City may provide the calculations using a Local Cost Sharing Development Charge or Area Development Charge approach, or a combination of the two. Council will consider the increase in need in the context of the recommendations for approval provided in each respective study.



Figure 4-1
The Process of Calculating a Local Cost Sharing Development Charge

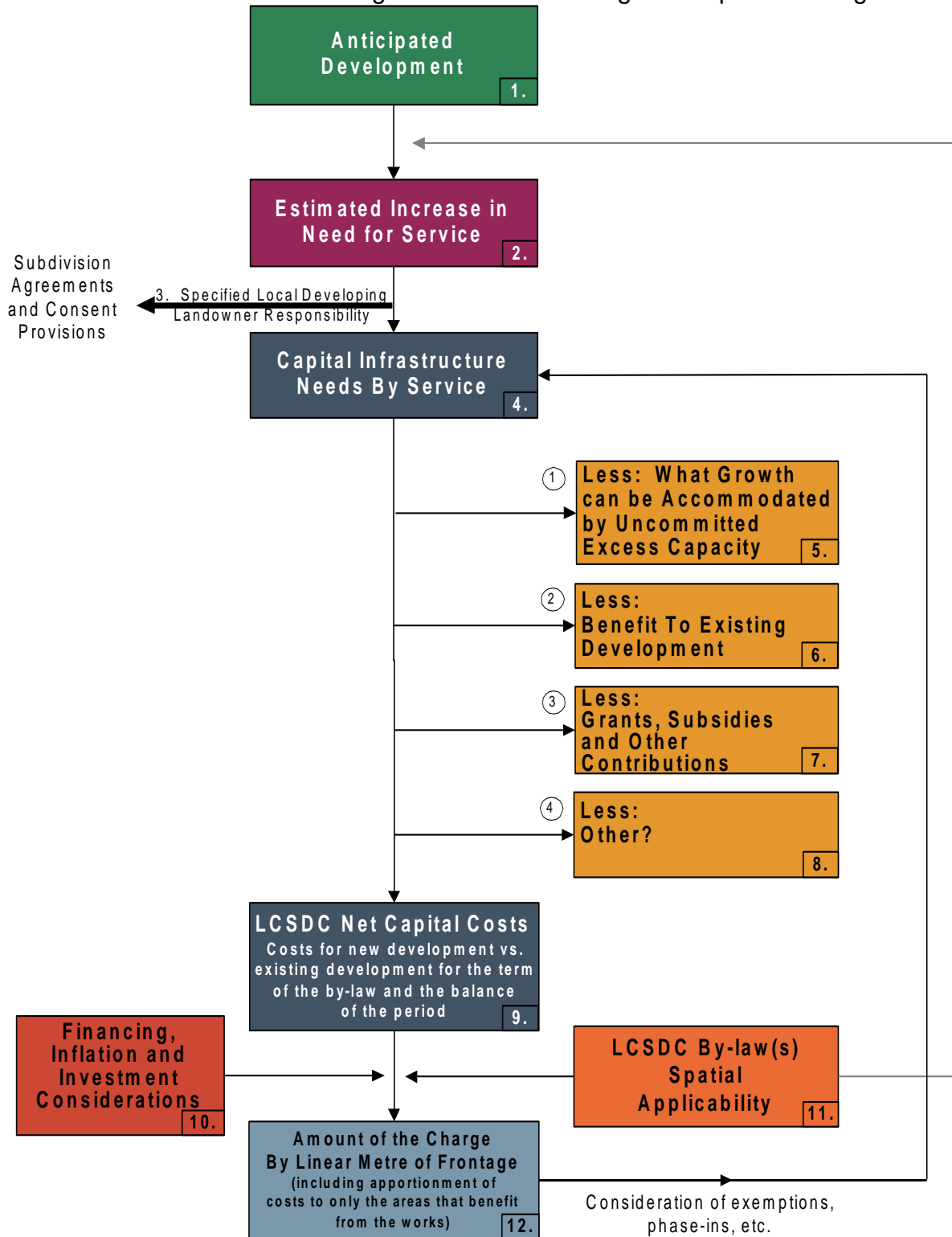
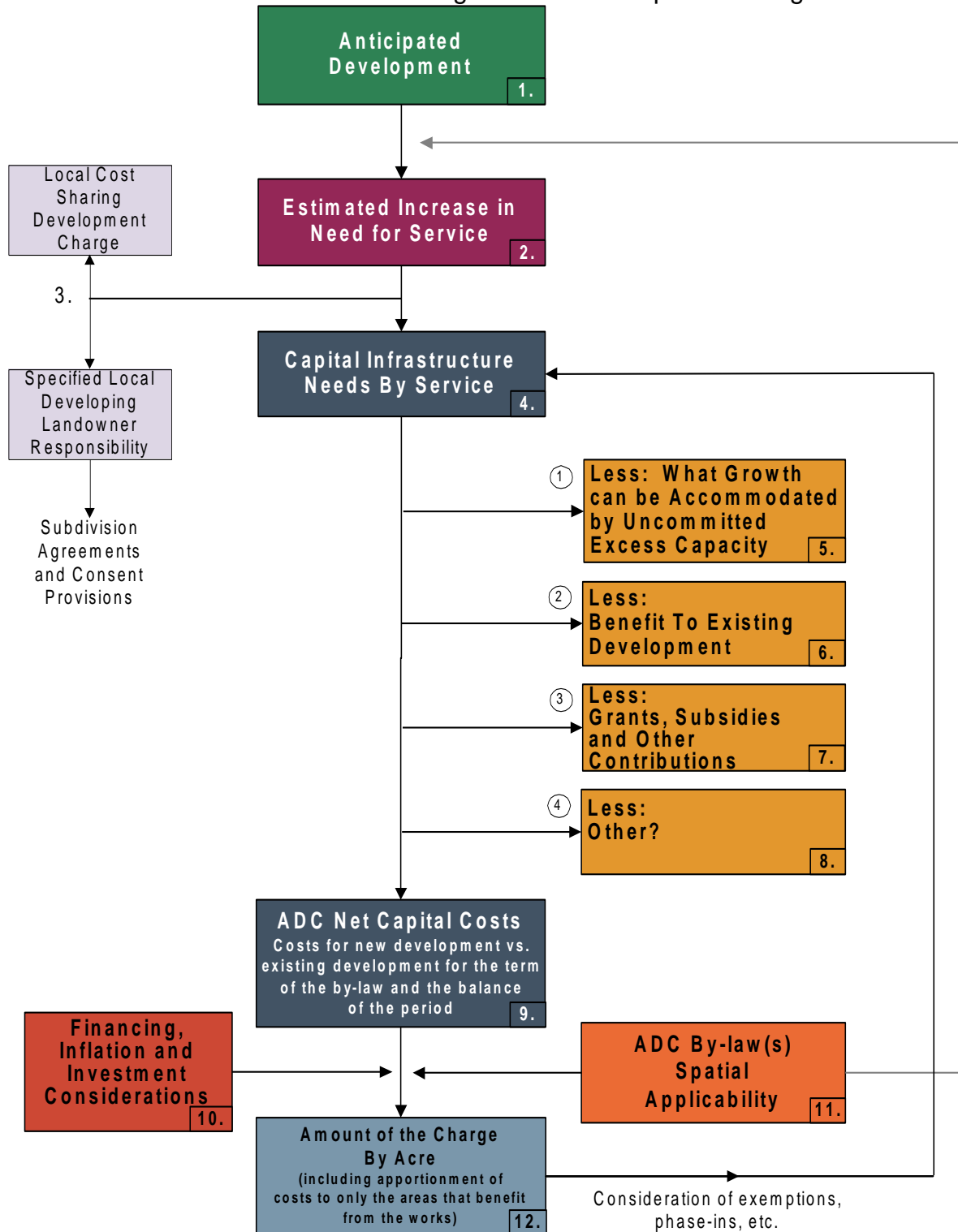




Figure 4-2
The Process of Calculating an Area Development Charge





4.4 Local Service Hierarchy

Some of the need for services generated by additional development consists of local services related to a plan of subdivision. As provided for in section 75 of the *Community Planning Act, 2017* they will be required as a condition of development agreements through the subdivision by-law. These costs are summarized and provided diagrammatically in Chapter 3.

4.5 Capital Forecast

For charge area of the by-law, the capital costs necessary to provide the increased services shall be estimated. The total gross capital costs are then adjusted to ensure that the costs included in the development charge are reflective of the net growth-related costs necessary to facilitate the anticipated growth in the City. These adjustments are outlined below.

These estimates involve capital costing of the increased services discussed above. This entails costing actual projects or the provision of service units, depending on how each service has been addressed.

The capital costs that may be included are defined in Chapter 3. These costs are for the following services:

- a) Water;
- b) Wastewater;
- c) Transportation;
- d) Trails; and
- e) Transit.

In order for an increase in need for service to be included in the development charge calculation, it is recommended that City Council indicate that it intends to ensure that such an increase in need will be met by including the appropriate works within its annual capital budget process. Timing of works should be staged based upon communication with the development community and prioritization of servicing to meet the anticipated demands.



4.6 Reserve Funds

Section 91(4) of the *Community Planning Act* states that:

“All money received by the council under this section is to be paid into a special account, and the money in that account is to be expended by the council for the specific purpose described in paragraphs (2)(a) to (g) for which it is collected and for no other purpose.”

There is generally no explicit requirement to net the outstanding reserve fund balance as part of making the development charge calculation. If the City should decide to implement broader Area Development Charges, it is recommended that the existing reserve fund balances (of the broader Area Development Charges) be used to net-down the capital costs identified, respective of each service. This can be done as categorizing the reserve fund balance as a benefit to existing development (as those developments that have paid into the reserve funds would then be considered existing development).

Annual reporting requirements have not been provided through legislation at this time; however, best practice warrants that an annual report should be provided to the public which discloses all of the development charges and payments.

It is recommended that the annual report provides the following details:

- Opening balance;
- Closing balance;
- Description of each service;
- Transactions for the year (e.g. collections, draws) including the capital cost of each asset to be funded from the development charge reserve fund;
- For projects financed by development charges, the amount spent on the project from the development charge reserve fund; and
- Amount and source of money used by the municipality to repay municipal obligations to the development charge reserve fund.

A sample reserve fund reporting template is provided in Appendix B for Local Cost Sharing Development Charges and Area Development Charges.



4.7 Deductions

The development charge potentially requires that the following deductions be made to the increase in the need for service. These relate to:

- Benefit to existing development;
- Anticipated grants, subsidies and other contributions; and
- Benefit to growth outside of the forecast period (Post-period Benefit).

4.7.1 Reduction for Benefit to Existing Development

This step involves a further reduction in the need, by the extent to which an increase in service would benefit existing development. Sanitary and water trunks, and drainage infrastructure are highly localized to growth areas and can be more readily allocated in this regard.

Where existing development has an adequate service level that will not be tangibly increased by an increase in service, no benefit would appear to be involved. For example, where expanding existing facilities simply replicates what existing residents are receiving, they receive very limited or no benefit as a result. On the other hand, where a clear existing service problem is to be remedied, a deduction should be made accordingly.

4.7.2 Reduction for Anticipated Grants, Subsidies and Other Contributions

This step involves reducing the capital costs necessary to provide the increased services by capital grants, subsidies and other contributions (including direct developer contributions required due to the local service principles) made or anticipated by Council and in accordance with various rules such as the attribution between the share related to new versus existing development. That is, some grants and contributions may not specifically be applicable to growth or where Council targets fundraising as a measure to offset impacts on taxes.

4.7.3 Reduction for Post-period Benefit

As the forecast period of the study reviews capital needs for growth over a set period, a deduction must be made for capital works that are oversized to accommodate some growth outside of the forecast period. The capital works required to service the benefiting



areas shall be reviewed for each benefitting area. If a project is required to service a benefitting area, the share of the costs related to the assumed growth to occur after the forecast period is the Post-period Benefit share and is deducted from the net development charge calculations.

Chapter 5

By-law

Implementation

5. By-law Implementation

5.1 Public Consultation Process

5.1.1 Introduction

This chapter addresses the formal consultation process. The purpose of which is to seek the cooperation and participation of those involved, in order to produce the most suitable principles. Section 5.2 addresses the anticipated impact of development charges on development from a generic viewpoint. The following process is provided based on best practices of stakeholder and community engagement. In addition to the legislative requirements of notice of by-law consideration and public hearing (section 111 of the *Community Planning Act, 2017*, further outlined below), the City is expected to establish the development charge in a fair and equitable manner, and consult in good faith with stakeholders.

5.1.2 Formal Consultation

Prior to passing a development charge by-law under the *Community Planning Act, 2017* the City shall:

- Consult with stakeholders prior to making a final determination on defining and addressing existing and future infrastructure and facility requirements;
- Consult on the calculation of the levy with stakeholders in the benefitting area where the levy will apply; and
- Present the development charge by-law and supporting documentation at a public hearing.

Additionally, during any consultation with the public and stakeholders, the City shall respond to questions in a timely manner.

5.1.3 Other Consultation Activity

There are three (3) broad groupings of the public who are generally the most concerned with City development charge principles:

1. The first grouping is the residential development community, consisting of land developers and builders who are typically responsible for generating the majority of the development charge revenues. Others, such as realtors, are directly

impacted by development charge principles. They are, therefore, potentially interested in aspects of the charge; particularly the quantum by unit type, projects to be funded by the development charge and the timing of collection, and City principles with respect to development agreements, development charge credits, and front-ending requirements.

2. The second public grouping embraces the public at large and includes taxpayer coalition groups and others interested in public principles.
3. The third grouping is the industrial/commercial/institutional development sector, consisting of land developers and major owners or organizations with significant construction plans, such as (but not limited to) hotels, entertainment complexes, shopping centres, offices, industrial buildings and institutions. Also involved are organizations such as industry associations, the local chamber of commerce, the board of trade and economic development agencies, who are all potentially interested in City Development Charge principles. Their primary concern is frequently with the quantum of the charge, gross floor area exclusions such as basements, mechanical or indoor parking areas, or exemptions and phase-in or capping provisions in order to moderate the impact.

5.1.4 Notice of By-law Consideration

Section 111 of the *Community Planning Act, 2017* states that a Council shall, by resolution, fix a time and place for the consideration of objections to the proposed by-law and give notice by one or more of the following means:

1. Publishing the notice on two separate occasions in a newspaper published or having general circulation in the local government of its intention of considering the making of the by-law, the first of the notices to be published not less than 21 days and not more than 30 days before the day fixed to consider the by-law, and the second of the notices to be published not less than four days and not more than 11 days before that day; or
2. Posting the notice on the local government's website of its intention of considering the making of the bylaw, to be published not less than 21 days before the day of by-law consideration.

A notice of by-law consideration:

1. Shall set forth a description of the area affected by the by-law;

2. Shall state a place where and the hours during which the by-law may be inspected and the time and place set by the council for the consideration of written objections to the by-law;
3. Shall indicate the person to whom written objections will be sent, and
4. May, in the case of an amendment or repeal, briefly state an explication or the reasons for the amendment or repeal.

Additionally, Council shall make suitable provision for inspection of the bylaw by the public at the time and place set out in the notice; and before making the by-law, hear and consider written objections to it.

A person who wishes to speak for or against written objections is entitled to be heard at the time and place fixed for consideration of the objections.

If, after the notice is given, the council substantially amends the proposed by-law, the provisions of Section 111 of the *Community Planning Act, 2017* apply with the necessary modifications to the amendment.

The council is not required to vote on the bylaw on the day fixed for by-law consideration, but the by-law shall not become valid unless, within six months after the day that the notice was given or published:

1. The by-law is made; and
2. The by-law is submitted for the approval of the Minister.

5.2 Anticipated Impact of the Levy on Development

The establishment of sound development charge principles often requires the achievement of an acceptable balance between two competing realities. The first is that high non-residential development charges can, to some degree, represent a barrier to increased economic activity and sustained industrial/commercial growth, particularly for capital intensive uses. Also, in many cases, increased residential development charges can ultimately be expected to be recovered through higher housing prices and can impact project feasibility in some cases (e.g. rental apartments).

On the other hand, development charges or other City capital funding sources need to be obtained in order to help ensure that the necessary infrastructure and amenities are

installed. The timely installation of such works is a key initiative in providing adequate service levels and in facilitating strong economic growth, investment and wealth generation.

5.3 Implementation Requirements

5.3.1 Introduction

Once the City has calculated the charge, prepared the background study, carried out the public process and passed a new by-law, the emphasis shifts to implementation matters.

These include notices, potential complaints, credits, front-ending agreements, deferred payment agreements, subdivision agreement conditions and finally the collection of revenues and funding of projects.

The sections which follow overview the requirements in each case.

5.3.2 Notice of By-law Passage

Once the Development Charge By-law is given 2nd and 3rd readings, it is formally adopted by Council. In accordance with section 112 of the *Community Planning Act, 2017*, the Minister of Local Government and Local Governance Reform must approve the By-law following adoption. The By-law is put into effect on the day in which it is registered in the Land Registry Office. In accordance with paragraph 112(1)(c), the City must publish notices in locally circulated newspapers and/or the City's website, which must include general information on the by-law and the decision of the Minister. The same process must be followed for an amendment to a Development Charge By-law.

5.3.3 Front-Ending Agreements

The City and one or more landowners may enter into a front-ending agreement which provides for the costs of a project which will benefit an area in the City to which the development charge by-law applies. Such an agreement can provide for the costs to be borne by one or more parties to the agreement who are, in turn, reimbursed in future by persons who develop land defined in the agreement.

Section 6 of the Development Charge By-law provides for the City to enter into agreements with applicants. Where infrastructure is front-ended by the applicant, Council may, via agreement, give credit towards future development charges imposed. This type of agreement is outlined under subsection 6(1):

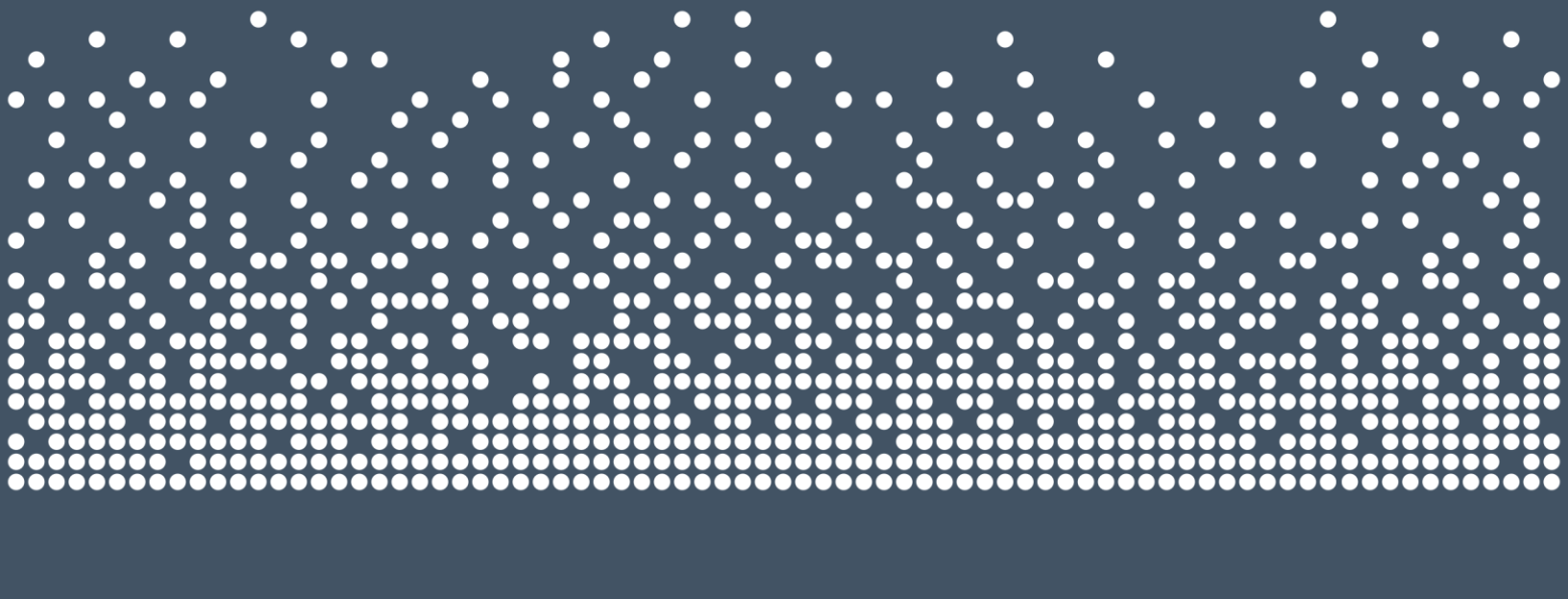
6(1) Despite the imposition of the development charges herein, Council, by agreement, may give a credit towards a development charge in exchange for an applicant constructing services identified for growth in the City's capital budget, at the applicant's expense.

5.3.4 Deferred Payment Agreement

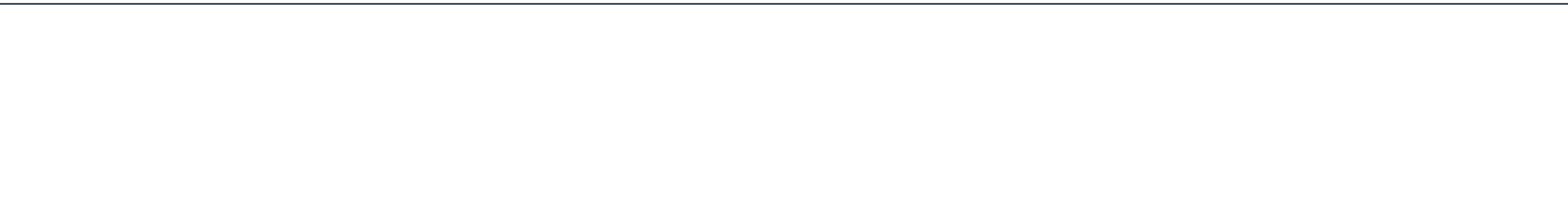
The City and one or more landowners may enter into a deferred payment agreement with applicants to delay the collection of development charges to a later collection milestone (e.g. 50% at subdivision stage or development/building permit stage). Under these agreements, 50% of the development charge shall be paid at subdivision execution/development or building permit stage, and the remaining amount shall be paid annually (with indexing). This type of agreement is outlined under subsection 6(2) of the Development Charge By-law:

6(2) Council may consider entering into a development charge agreement providing for delayed payment for up to 50% of the development charge.

To manage agreement requests and associated demands on City resources, deferred payment agreements shall only be entered into when the total development charge for the subject property is \$500,000 or greater. Despite this agreement threshold, Council may enter into an agreement where a lesser amount is imposed and where extenuating circumstances warrant.



Appendices





Appendix A Draft Calculation Template



Appendix A: Draft Calculation Template

Capital Costs Included in the D.C. Calculation

Development Area:

Service	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost Estimate (2019\$)	Less:		Net Capital Cost	Less:		Potential D.C. Recoverable Cost	Local Cost Sharing D.C. Share	Area D.C. Share
				Post Period Benefit/Oversizing Costs	Other Deductions		Benefit to Existing Development/City Share	Grants, Subsidies and Other Contributions Attributable to New Development			
Water	Sample Capital Item 1			-		-	-		-	-	-
Wastewater	Sample Capital Item 2			-		-	-		-	-	-
Transportation	Sample Capital Item 3			-		-	-		-	-	-
				-		-	-		-	-	-
				-		-	-		-	-	-
				-		-	-		-	-	-
				-		-	-		-	-	-
	Total		-	-	-	-	-	-	-	-	-

Development Area Summary

Development Area:

Property	Map Area Reference	Frontage (m)	Gross Land Area (acres)
Property 1	1		
Property 2	2		
Property 3	3		
Property 4	4		
Property 5	5		
Property 6	6		
Total		-	-



Development Charges Calculations

Development Area:

Local Cost Sharing Development Charges

Service	Local Cost Sharing D.C.- recoverable Cost	Frontage (m)	Local Cost Sharing Development Charge per linear Metre
Water	-	-	-
Wastewater	-	-	-
Transportation	-	-	-
Total	-		-

Area Development Charges

Service	Area D.C.-recoverable Cost	Gross Land Area (acres)	Area Development Charge per Acre
Water	-	-	-
Wastewater	-	-	-
Transportation	-	-	-
Total	-		-



By-law Table - Summary of Applicable Charges by Property

Development Area:

Property	Map Area Reference	Net Eligible Local Cost Sharing Development Charge Costs	Net Eligible Area Development Charge Costs
Property 1	1	-	-
Property 2	2	-	-
Property 3	3	-	-
Property 4	4	-	-
Property 5	5	-	-
Property 6	6	-	-
Total		-	-



Appendix B

Annual Reserve Fund

Reporting Template



Annual Treasurer's Statement of Development Charge Reserve Funds

Development Area:

Description	Services to which the Development Charge Relates						Total
	Water	Wastewater	Roads	Stormwater	Trails	Transit	
Opening Balance, January 1, _____							0
<u>Plus:</u>							
Development Charge Collections							0
Accrued Interest							0
Repayment of Monies Borrowed from Fund and Associated Interest ¹							0
Sub-Total	0	0	0	0	0	0	0
<u>Less:</u>							
Amount Transferred to Capital (or Other) Funds ²							0
Amounts Refunded							0
Amounts Loaned to Other D.C. Service Category for Interim Financing							0
Credits ³							0
Sub-Total	0	0	0	0	0	0	0
Closing Balance, December 31, _____	0	0	0	0	0	0	0

¹ Source of funds used to repay the D.C. reserve fund

² See Attachment 1 for details

³ See Attachment 2 for details



Attachment 1: Amount Transferred to Capital (or Other) Funds - Capital Fund Transactions

Development Area:

Capital Fund Transactions	Gross Capital Cost	D.C. Recoverable Cost Share					Non-D.C. Recoverable Cost Share					
		D.C. Forecast Period			Post D.C. Forecast Period		Other Reserve/Reserve Fund Draws	Tax Supported Operating Fund Contributions	Rate Supported Operating Fund Contributions	Debt Financing	Grants, Subsidies Other Contributions	
		D.C. Reserve Fund Draw	D.C. Debt Financing	Grants, Subsidies Other Contributions	Post-Period Benefit/Capacity Interim Financing	Grants, Subsidies Other Contributions						
Water												
Capital Cost A												
Capital Cost B												
Capital Cost C												
Sub-Total - Water	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Wastewater												
Capital Cost D												
Capital Cost E												
Capital Cost F												
Sub-Total - Wastewater	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Roads												
Capital Cost G												
Capital Cost H												
Capital Cost I												
Sub-Total - Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Stormwater												
Capital Cost G												
Capital Cost H												
Capital Cost I												
Sub-Total - Stormwater	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Trails												
Capital Cost G												
Capital Cost H												
Capital Cost I												
Sub-Total - Trails	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Transit												
Capital Cost G												
Capital Cost H												
Capital Cost I												
Sub-Total - Transit	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	



Attachment 2: Statement of Credit Holder Transactions

Development Area:

Credit Holder	Applicable D.C. Reserve Fund	Credit Balance Outstanding Beginning of Year _____	Additional Credits Granted During Year	Credits Used by Holder During Year	Credit Balance Outstanding End of Year _____
Credit Holder A					
Credit Holder B					
Credit Holder C					
Credit Holder D					
Credit Holder E					
Credit Holder F					