CITY OF KINGSTON

DEVELOPMENT CHARGES AND IMPOST FEE BACKGROUND STUDY

STEERING COMMITTEE MEETING NO. 1

NOVEMBER 29, 2013
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1. PROJECT WORKPLAN/PROJECT SCHEDULE
### Table 1-1
**City of Kingston Development Charge and Impost Fee Study - Proposed Work Plan**

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<tr>
<td><strong>1. STUDY START-UP</strong></td>
<td>1.1 Develop work program with Steering Committee</td>
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<td>1.3 Discussion re: project schedule, methodology and information requests</td>
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<td>2.1 Gather information regarding historical (past 10 yr.) asset inventories, capital budget projections and future capital requirements. Water and wastewater background information for impost fee portion of study.</td>
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<td>2.2 Review relevant background studies (e.g. Master Plans, Servicing Studies, etc.)</td>
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<td>2.3 Prepare and review historic level of service calculations</td>
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<td>2.5 Review of outstanding DC/Impost Fee credits (if applicable)</td>
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<td>2.6 Review long term debt and identification of existing facility/infrastructure oversizing</td>
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<td>2.7 Conduct a half day workshop with City Departments to review documentation and determine capital needs</td>
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<td>2.8 Prepare policy discussion paper for presentation to Steering Committee re DC rules for exemptions, phase-ins, indexing, charges for redevelopment. Preliminary discussions of growth forecast and capital projects</td>
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<td>4.4 Calculation of the development charges based on need for service identified in 4.2, reduced by:</td>
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<td>4.4.1 any existing capacity created for which Council did not indicate DCs would be used (at the time the capacity was created)</td>
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<td>4.4.2 the extent to which existing development would benefit from the increase in service</td>
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<td>4.4.3 the percentages and capital cost exclusions as designated by the Act</td>
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<td>4.4.4 anticipated capital grants, subsidies or other contributions in respect of the capital costs</td>
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<td><strong>5. EXAMINATION OF LONG TERM CAPITAL/OPERATING</strong></td>
<td>5.1 Examine the long term capital and operating costs for capital infrastructure improvements</td>
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<td><strong>6. DRAFT DC BACKGROUND STUDY/REVIEW</strong></td>
<td>6.1 Preparation of draft DC Background Studies and By-law(s)</td>
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<td>6.2 Determination of preliminary recommendations on categories of services (for reserve fund and credit purposes), by-law commencement date, expiry date, collection timing</td>
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<td>6.3 Finalization of draft DC Background Studies for review with Steering Committee</td>
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<th>Dec-13</th>
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Watson & Associates Economists Ltd.
2. METHODOLOGY FOR CALCULATING A DEVELOPMENT CHARGE UNDER THE DCA, 1997
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Figure 1 summarizes the method that must be used to determine the development charges that may be imposed, pursuant to s.s.5(1) of the Development Charges Act, 1997 and several related sections.

**FIGURE 1: THE PROCESS OF CALCULATING A DEVELOPMENT CHARGE UNDER THE ACT THAT MUST BE FOLLOWED**

1. Anticipated Development
2. Estimated Increase in Need For Service
3. Ineligible Services
4. Ceiling Re: Increased Need
5. Needs That Will Be Met
6. Examination of the Long Term Capital and Operating Costs For Capital Infrastructure
7. DC Net Capital Costs
8. Costs for new development vs. existing development for the term of the by-law and the balance of the period
9. Amount of the Charge By Type of Development (including apportionment of costs - residential and non-residential)
10. DC By-law(s) Spatial Applicability
11. Consideration of exemptions, phase-ins, etc.

1.1 Anticipated Development
1.2 Estimated Increase in Need For Service
1.3 Ineligible Services
1.4 Ceiling Re: Increased Need
1.5 Needs That Will Be Met
1.6 Examination of the Long Term Capital and Operating Costs For Capital Infrastructure
1.7 DC Net Capital Costs
1.8 Specified Local Services
1.9 DC Needs By Service
1.10 Less: Uncommitted Excess Capacity
1.11 Less: Benefit To Existing Devt.
1.12 Less: Grants, Subsidies and Other Contributions
1.13 Less: 10% Where Applicable
1.14 Financing, Inflation and Investment Considerations
1.15 DC By-law(s) Spatial Applicability
1.16 Consideration of exemptions, phase-ins, etc.
3. MUNICIPAL ACT CAPITAL CHARGE PROVISIONS
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The Municipal Act, 2001, came into force January 1, 2003. Part XII Fees and Charges, gives municipalities the statutory authority to recover the costs of services, including capital costs, through by-law. Municipalities have used these types of capital charges to recover infrastructure costs associated with the extension of municipal services to private service users, to recover capital improvement costs from existing developments, and to recover growth-related costs of service extension. These by-laws are typically used where development charges would not be applicable (e.g. recovery from existing developments) or where existing and growth-related cost recovery would be simplified under the administration of one by-law.

The following subsections provide reference to the relevant statutory provisions of the Municipal Act and associated regulation.

3.1 Municipal Act – Part XII

By-laws re: fees and charges

391. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to impose fees or charges on persons,
   (a) for services or activities provided or done by or on behalf of it;
   (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
   (c) for the use of its property including property under its control.

Deferred benefit

391. (2) A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time.

Costs related to administration, etc.

391. (3) The costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets.

The above referenced sections of the Municipal Act indicate that it is permissible for municipalities to impose charges for the recovery of capital costs associated with services that are provided either directly or on its behalf. These capital costs can include costs associated with the initial establishment or acquisition of capital or for the replacement of existing capital.
assets. Moreover, the Act permits the imposition of capital charges on persons who receive an immediate benefit or a benefit at some later point (i.e. deferred benefit).

Section 391 of the Municipal Act does not define a methodology for calculating the fee or charge quantum, nor for determining its distribution among the benefiting landowners. As such, fees and charges may be determined at the reasonable discretion of Council following some general restrictions.

Restriction, poll tax

393. No fee or charge by-law shall impose a poll tax or similar fee or charge, including a fee or charge which is imposed on an individual by reason only of his or her presence or residence in the municipality or part of it.

Restriction, fees and charges

394. (1) No fee or charge by-law shall impose a fee or charge that is based on, is in respect of or is computed by reference to,
(a) the income of a person, however it is earned or received, except that a municipality or local board may exempt, in whole or in part, any class of persons from all or part of a fee or charge on the basis of inability to pay;
(b) the use, purchase or consumption by a person of property other than property belonging to or under the control of the municipality or local board that passes the by-law;
(c) the use, consumption or purchase by a person of a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law;
(d) the benefit received by a person from a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law; or
(e) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

There are no public process requirements under Part XII for adopting a capital charge by-law (although it is a prudent process recommendation). Part XII charges cannot be appealed to the OMB on the grounds that the fees or charges are unfair or unjust. However they may be challenged in court on the basis that the municipality is not operating within its statutory authority.
3.2 **Ontario Regulation 584/06**

Ontario Regulation 584/06 governs the fees and charges provision of the *Municipal Act*. The fees and charges regulation was revised in 2006 by the *Municipal Statute Law Amendment Act*. The regulation in its present form is less prescriptive than its predecessor. The previous regulation (i.e. O.Reg. 244/02) limited by-laws for water and waste services to a 1-year period, required public process notification and meetings to substantiate any charges and expressly limited any charges to the costs of service. Furthermore, the previous restrictions whereby a municipality did not have the power to impose fees or charges under Part XII of the Act relating to the allocation of sewage and water capacity have been removed. These changes to the fees and charges regulation provide municipalities with greater flexibility in determining its use.

It should be noted that in applying Section 391 of the *Municipal Act* for the recovery of capital costs a municipality must have regard for the associated regulation. Section 2(1) of the regulation indicates that a fee under the Act cannot be imposed to recover capital costs that are also included in a development charge or front-ending agreement which is in effect before the imposition of the fee. This clause is provided to avoid a duplication of fees and charges for the same works.

**Capital costs**

2. (1) A municipality and a local board do not have power under the Act to impose fees or charges to obtain revenue to pay capital costs, if as a result of development charges by-laws or front-ending agreements under the Development Charges Act, 1997 or a predecessor of that Act that was passed or entered into before the imposition of the fees or charges, payments have been, will be or could be made to the municipality or local board to pay those costs."

3.3 **Ontario Regulation 581/06**

Ontario Regulation 581/06 provides priority lien status for fees and charges imposed for certain services. Under this regulation, fees and charges imposed for the use of a sewage system may be added to the tax roll, as a debt to the municipality, and will have priority lien status. These powers allow the treasurer of the municipality to add fees and charges to the tax roll and collect them in the same manner as taxes. Priority lien status provides for the recovery of interest costs associated with the debt from the assessed owner at the time of the fee or charge being imposed or from a subsequent property owner, and may be included in the cancellation price.
Certain public utility fees and charges

1. Fees and charges that are imposed by a municipality or local board under the Act for the following services and added to the tax roll under subsection 398(2) of the Act have priority lien status as described in section 1 of the Act:
   1. For the supply of water.
   2. For the supply of artificial or natural gas.
   3. For the supply of steam or hot water.
   4. For the use of a sewage system.
   5. For the use of a waste management system.
4. SUMMARY OF THE CITY’S EXISTING DEVELOPMENT CHARGES AND IMPOST FEES POLICIES/BYLAWS
4. SUMMARY OF THE CITY’S EXISTING DEVELOPMENT CHARGES AND IMPOST FEES POLICIES/BYLAWS

4.1 Cost Eligibility of Municipal Services

City development charges are imposed under No. 2009-136, as amended (under the authority of the Development Charges Act, 1997) for City Services including:

- Protection Service (Fire and Police);
- Roads and Related Services;
- Parks and Recreation Service (but not including acquisition of lands for parks);
- Library Service;
- Transit;
- Social Housing;
- Administration Service.

The City also collects impost fees for water and waste water services within the Urban Service Area (By-law-138).

4.2 Imposition of Charges

The rules for determining if a development charge or impost fee is payable in a particular case, and for determining the amount of the charge, are as follows:

- Development charges apply to all lands in the City of Kingston.
- Development charges are payable under the by-law at issuance of a building permit.
- Water and waste water impost fees are applicable only within the Urban Service Area.
- Impost fees are payable upon connection to the water or waste water system if a building permit is not applicable to a serviced development.

Discussion regarding use of area-specific charges for intensification areas and other geographic areas based on differentiated capital needs for service.
4.3 **Development Types**

Residential development charges and impost fees are imposed on a per residential dwelling unit basis, based on the following dwelling unit types:

- Single and semi-detached;
- Apartments – 2 bedroom and larger;
- Apartments – bachelor and 1 bedroom;
- Other multiples – 2 bedroom and larger;
- Other multiples – less than 750 sq.ft. with 1 bedroom

Uniform non-residential development charges are imposed on a per square foot of gross floor area, subject to exemptions. Non-residential impost fees are differentiated between long-term nursing homes and other non-residential uses.

4.4 **Exemptions**

The following uses are wholly exempt only from the City-wide development charges under By-law No. 2009-136, as amended (water and waste water fees still apply):

- Lands owned by and used for the purposes of a municipality, local board thereof, or board of education;
- The enlargement of the gross floor area of an existing industrial building where the gross floor area is enlarged by 50 percent or less;
- A place of worship classified as exempt from taxation under Section 3 of the Assessment Act;
- A non-residential farm building; and
- Industrial and research facility uses (in accordance with terms of the bylaw). Note, primary manufacturing – food processing uses are also exempt under the Impost Fees By-law.

The following uses are exempt from all charges under By-law No. 2009-136 (City DC), as amended, and By-law No. 2009-138 (Impost Fee), as amended:

- An interior alteration to an existing building or structure which does not change or intensify the use of land;
- The enlargement of an existing residential dwelling unit, or the creation of one or two additional units where specified conditions are met; and
- Lands within a Community Improvement Plan area (subject to terms of the program).
4.5 **Other Policies**

The schedule of development charges and impost fees are adjusted annually on September 29th in accordance with the most recent twelve month change in the Statistics Canada Quarterly “Construction Price Statistics.”

Redevelopment and conversion credits against DCs and Impost Fees are witnessed with established occupancy and demolition permit issuance within five years of building permit issuance. Credits do not extend to demolition or conversion of exempt uses under the current bylaw.

Current development charges and impost fees, effective September 2013, are as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Residential</th>
<th>Non-Residential</th>
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<tbody>
<tr>
<td>City-Wide (Development Charges)</td>
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<tr>
<td>Protection</td>
<td>579 $</td>
<td>371 $</td>
</tr>
<tr>
<td>Roads and Related</td>
<td>6,512 $</td>
<td>4,196 $</td>
</tr>
<tr>
<td>Transit</td>
<td>246 $</td>
<td>159 $</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>2,473 $</td>
<td>1,093 $</td>
</tr>
<tr>
<td>Libraries</td>
<td>485 $</td>
<td>217 $</td>
</tr>
<tr>
<td>Social Housing</td>
<td>115 $</td>
<td>52 $</td>
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<tr>
<td>Administration</td>
<td>96 $</td>
<td>43 $</td>
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<tr>
<td>Sub-Total</td>
<td>10,509 $</td>
<td>10,438 $</td>
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<td>Urban Service Area (Impost Fees)</td>
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<tr>
<td>Water Works</td>
<td>2,055 $</td>
<td>1,152 $</td>
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<tr>
<td>Sanitary (Waste Water)</td>
<td>1,918 $</td>
<td>859 $</td>
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<tr>
<td>Sub-Total</td>
<td>4,583 $</td>
<td>5,011 $</td>
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<tr>
<td>Total Development Related Charges</td>
<td>15,092 $</td>
<td>15,447 $</td>
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5. INITIAL POLICY CONSIDERATIONS DISCUSSED WITH STAFF
5. INITIAL POLICY CONSIDERATIONS DISCUSSED WITH CITY STAFF

Preliminary policy considerations discussed with City Staff at November 28th meeting included:

Development Charge Services
- Municipal Parking
- Airport
- Public Health
- Ambulance
- Provincial Offences/Bylaw

Service Definition
- Services Related to Highways

Imposition of Charges
- Uniform vs. Area Specific application
- Differentiation by Type (e.g. industrial/non-industrial vs. uniform non-residential)

Exemptions
- Affordable Housing
- Brownfield Development
- North Block (downtown)
- Williamsville Development
6. INFORMATION REQUIREMENTS
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6.1 Preliminary Information Requests

Preliminary information request has been circulated, including requests for:

- A copy of the city’s current Official Plan – Planning
- Recent background reports which deal with population and employment growth for the city – Planning
- Background information with respect to water/sewer servicing capacity for the City of Kingston in population equivalents. This should also include details on planned plant expansions (i.e. timing and additional population capacity). This information will be used to determine any short-term constraints to growth - UK
- A current inventory of all housing units in the City’s development process, including: total number of units by housing type (i.e. single-detached, semi-detached, townhouses, apartments), developer name, development status (i.e. registered, draft approved, application pending, severances, etc.), and geographic location - Planning
- An inventory of designated urban “greenfield” lands by geographic area (in acres or hectares) not currently in the development approvals process. Please specify if these lands are gross or net of environmental areas, roads, etc. - Planning
- A list of residential lots identified for potential intensification, including the total potential unit yield by dwelling type (i.e. singles, semis, townhouses, apartments) – Planning
- Conceptual mapping data indicating the location of all proposed/active development applications, greenfield lands, and lands identified for intensification purposes – Planning
- Historical residential building permits for serviced vs. unserviced housing units issued over the past 10 years – Planning
- Background information regarding recent housing trends, i.e. adult lifestyle, seniors’, housing – Planning
- A site-by-site inventory of vacant industrial/employment, commercial and institutional land supply. Please specify if figures are “gross” or “net” of environmental areas – Planning
- A conceptual map which geographically illustrates the location of designated vacant industrial/employment, commercial and institutional lands – Planning
- A summary of historical non-residential building permit values and/or Gross Floor Area (GFA) by industrial, commercial and institutional sector over the past 10 years. This summary should identify new construction vs. expansions/improvements to existing buildings – Planning
- A list of active industrial site plans under review (including name of company, industry type and site size in net acres) – Planning
• Any other insights with respect to the prospects for future industrial, commercial and institutional development - Real Estate & Construction, Planning, CAO
• Any written development charge policies of the municipality (that consultant would not already have) – Finance
• Capital Budget and Long Term Forecast (as readily available, including status of document) – Finance
• Financial Statements and Financial Information Return – Finance
• Details regarding outstanding debentures for major capital projects (including identification and total cost of project, repayment schedule -- both principal and interest, and time period remaining) – Finance
• Any available future servicing studies or master plans (e.g. road needs, library, fire, parks and recreation) - Planning, UK
• Development Charge Reserve Fund Statement annual statements – Finance
• Any “Best Efforts” or other form of developer payback agreements for which the municipality may have obligations – Finance
• Example of a recent subdivision agreement – Planning
• Any development charge issues already identified which should be addressed in the new DC process - Finance, CAO
• Any other information that the city feels will be relevant to the study process -Finance, CAO
• Appropriate staff from each department to review and complete the service standard and capital needs table provided – All Departments
• Copies of any masterplan or servicing studies completed in the recent past, in addition to documents contained in Appendix ‘B’ to the Request for Proposal – All Departments

City staff to provide preliminary information by mid-December for review and individual department interviews in early January.