

Staff Report



To	City Council
Service Area	Corporate Services
Date	Tuesday, October 17, 2023
Subject	Development Charge Results and Background Study

Recommendation

1. That the 2023 Development Charge Results and Background Study report dated October 17, 2023 be received.
 2. That Council direct staff to investigate the use of front-ending agreements as a growth financing tool, including the impact on staffing implications, impact on credit rating, delegated authority structure, and the risks and benefits.
 3. That Council direct staff to review the need for a five-year update to the Development Charge By-law as a part of 2028-2031 budget process.
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Executive Summary

Purpose of Report

The City of Guelph is in the process of updating its by-law under the authority of the Development Charges Act, 1997, as amended (DCA). Development Charges (DCs) are a revenue tool applied to development which helps fund the capital costs to accommodate growth. The current by-law will expire on March 2, 2024. The City has completed a Development Charges Background Study (DCBS), as required under the DCA, and must adopt a new by-law to continue to charge and collect DCs beyond the expiry date.

Under the DCA, the DCBS must be made available to the public at least 60 days prior to the passing of the DC by-law. This report satisfies this legislative requirement. The passing of the by-law is scheduled for January 2024.

Key Findings

Since the preliminary draft DCBS was presented to Council on July 19, 2023, staff have worked with Watson & Associates Economists Ltd. (Watson) to refine the DCBS. With the refinements, the updated DC rate changed from \$68,902 to \$69,300 for a single or semi-detached residential unit and from \$27.25 to \$27.44 per square foot for non-residential development. This represents an increase of 0.6 per cent from what was projected in July. In July, staff further identified that some exemptions included in Bill 23 which have the potential to impact DC revenue collected by the City had not been defined or brought into force. At the time of this writing, no new announcements have been made with respect to how Bill 23 will be regulated or when provisions mandating these new exemptions will come into force.

Analysis done by Council direction indicates that having a uniform development charge, rather than area specific charges, will keep a level playing field for growth that is expected to have less of an impact on tax rates and user rates. Analysis also showed that area specific charges would limit flexibility of promoting development and were less desirable from the perspective of encouraging growth City-wide. Therefore, the DCBS is recommending having a uniform charge.

Staff recommend reviewing the need for updating the by-law at the five-year mark. Staff also recommend restructuring the current single development charge by-law into separate DC by-laws for each service, subject to a “parent” by-law which provides definitions and exemptions for purposes of uniformly implementing the individual service by-laws. This will ensure that updating the rates for one service will not trigger a new mandatory discount for the other services.

Strategic Plan Alignment

The DCBS supports the strategic theme of City Building in the Future Guelph strategic plan by helping the City improve housing supply. The DCBS supports the required DC by-law update to enable the continued DC revenue generation to support growth-related capital infrastructure projects. The DCBS also identifies funding gaps in the City’s growth revenues to support planning. The updated by-law(s) will be aligned with the updated DCA (post Bill 23) as it reads at the time of ultimate implementation.

Financial Implications

DCs are an important tool for municipalities to fund the capital costs associated with growth. The City collects DCs at the time of issuing the first building permit to a development. Key infrastructure required for growth often needs to be emplaced before the growth occurs. This misalignment between the timing of costs and revenues can result in cash flow challenges for the municipality. Furthermore, the DCA requires deductions and exemptions which were significantly expanded in Bill 23 and are anticipated to increase in their impact when Bill 23 is fully in force, which must be funded from non-DC sources. Any updates required in the DC capital program will be incorporated into the final version of the DC background study that Council will be asked to approve in January along with the by-law.

Report

Background

The City’s current DC By-law [\(2021\)-20643](#) will expire on March 2, 2024. Council is required to adopt a new by-law prior to the expiry of the current by-law to ensure the uninterrupted collection of DCs.

On July 19, 2023, staff delivered a [Council Orientation and Education Workshop](#) to provide an overview of what DCs are, how they are regulated, how rates are determined, and their relationship to other planning and budgeting processes. Watson delivered a [Council Presentation](#) on the progress of the DCBS and provided estimated impacts of Bill 23 on DC collections.

Rate Update

Since the last touch point, staff and Watson have further refined the DCBS.

Updates to the DCBS since July 2023 include refined growth allocations for linear water projects, and the addition of the Guelph Transit Terminal to the DC capital program. With the refinements, the new proposed DC rates changed from \$68,902 to \$69,300 for a single or semi-detached residential unit and from \$27.25 to \$27.44 per square foot for non-residential development. This represents an increase of 0.6 per cent from the previous touch point with Council.

Area-Specific Rates

The DCA provides municipalities with the option to impose either a uniform charge or area-specific charges.

In the Council Memo dated May 13, 2022, entitled [Clair-Maltby Secondary Plan – Technical Clarifications](#) staff committed to evaluating whether an area rating to fund infrastructure in the secondary plan area would be appropriate from revenue and non-revenue perspectives.

Calculated Area-Specific Rates

Area-specific DCs are not practical or beneficial for all services. There are two main factors to consider as to whether it is feasible and appropriate to consider an area-specific DC. First consideration, the area that the DC-eligible infrastructure is servicing should be well-defined. Second, the amount of recovery for infrastructure costs should not be limited by legislation. Water, wastewater, and stormwater are the only services that meet the above criteria. Therefore, the analysis on an area-specific charge has assessed the impact of area rating only on these services.

As a reminder, to calculate a uniform rate, one takes DC eligible cost to accommodate growth and divides it by the projected growth. Below is an excerpt of the calculated uniform rates for the water, wastewater, and stormwater services.

Table 1: Calculated Uniform Rates for Water, Wastewater and Stormwater Services.

Services	Uniform Rate
Stormwater Drainage and Control Services	\$757
Water Treatment and Distribution Services	\$12,929
Wastewater Treatment and Sewer Services	\$9,773
Total	\$23,459

To calculate area-specific rates, one takes DC eligible costs to accommodate growth and divides it by the projected growth for each specific area. Below are the calculated rates for the water, wastewater, and stormwater services that would apply for Clair-Maltby and the remaining city-wide area.

Table 2: Calculated Area-Specific Rates for Water, Wastewater, and Stormwater Services.

Services	Clair-Maltby	Remaining City-Wide
Stormwater Drainage and Control Services	\$62	\$920
Water Treatment and Distribution Services	\$10,121	\$13,564
Wastewater Treatment and Sewer Services	\$9,575	\$9,775
Total	\$19,758	\$24,259

The calculated area-specific rate for Clair-Malby is lower than the remaining city-wide rate.

Calculated Area Specific Rates Analysis

The total cost of accommodating growth is more than the costs covered by DCs. The City’s local service policy requires developers to build local infrastructure pursuant to development agreements or applicable approval processes. While the local infrastructure is provided by the developers, the cost of ongoing maintenance and replacement is the responsibility of the City. The more local infrastructure required to accommodate growth, the more pressure development will put on property taxes and user rates.

Staff analyzed the cost of assumed water, wastewater and stormwater assets across the City through the local service policy from 2018 to 2022 and compared it with the number residential unit building permits. Staff also pulled the local service policy cost estimates from the [Fiscal Impact Assessment for the Clair-Maltby Secondary Plan](#), last revised on August 20,2021, and compared it with the projected units for the area out to 2051.

The analysis found that more new infrastructure on a per unit basis will be required in the Clair-Maltby area than the rest of the city on average. The analysis is shown in the table below.

Table 3: Comparison of local service infrastructure requirements between Clair-Maltby and the rest of the city

	Clair-Maltby (Projected)	City-wide (Last 5 Years)
Local Service Policy Infrastructure Cost	\$109,960,000	\$24,983,214
Estimated Units Supported	7,152	4,729
Estimated Cost Per Unit	\$15,375	\$5,283

The analysis above indicates that supporting development in Clair-Maltby would be more expensive than the City average when we consider the costs of the infrastructure covered by the local service policy. This is because after the local service infrastructure is built, it is handed over to the City. This infrastructure needs

to be maintained and replaced over time, which costs more money. The above analysis indicates that development in Clair-Maltby comes at a higher cost to the City than intensification development within the existing built-up areas of the City.

Council expressed an interest in having development charges incent development to achieve the City's policy objectives. Priority intensification areas have been identified throughout the City and to meet the City's growth targets and housing pledge objectives, the City needs to encourage growth in all such areas. If the development charge rate is lower for Clair-Maltby, the rate will create an advantage to build in the area and create a disadvantage to build elsewhere.

A uniform rate will keep a level playing field for development City-wide and is expected to have less of an impact on tax rates and user rates than singling out the Clair-Maltby secondary plan area for an area-specific rate.

Other Considerations for Area-Specific Rates

There are other strategic and administrative considerations with respect to implementing an area-specific charge.

Area-specific charges are sometimes a tool that will assist with implementing alternate development charge payment agreements, or "front-ending agreements", with developers. If all the projects within an area specific charge are proposed to be front-ended, the entire area-specific DC would be used to pay back these front-ended projects. This removes the decision from staff of deciding which projects to fund first from DC revenues.

However, conversely, the alternative is also true as area-specific charges create a constraint on the flexibility to build infrastructure that crosses the area boundaries. Currently, there is a small provision for the Clair-Maltby infrastructure to support surrounding lands outside of the Secondary Plan area. Setting the boundary of the area specific charge removes the flexibility of which development can tap into the Clair-Maltby infrastructure in the future. Further examination has indicated that having a uniform rate will not prevent the City from implementing front-ending agreements as a financing tool if that is determined to be desirable after further analysis. Moreover, implementing an area-specific charge may remove the options in finding willing partners to enter into a front-ending agreement.

An area-specific charge removes flexibility in other ways. When an area-specific charge is established, separate reserve funds must be created to account for the collections in the area. A uniform rate allows for DCs collected for a service to be spent anywhere throughout the municipality without restriction, allowing for more strategic investment in infrastructure. Moreover, a uniform rate allows for more flexible resource management and reduced administrative burden as there are fewer restrictions on inter-DC Reserve Fund borrowing, significantly minimizing the need for debt to manage cash flow issues.

Given these constraints and in the absence of a revenue benefit for doing so, staff are not recommending pursuing an area-specific charge as part of the DC by-law update.

Development Charge By-law

As was previously reported in the July report, the Province extended the maximum by-law period from five years to 10 years. The Province also introduced a mandatory discount on the rates set out in a by-law that starts when the by-law

comes into effect and phases out over a five-year period. Staff are putting forward DC by-law(s) that will expire in 10 years to minimize the impact of the mandatory phase-in cost.

Staff also recommend additional actions to mitigate against the mandatory discount and to support growth. Notwithstanding the ten-year expiration, staff recommend reviewing the need for updating the by-law at the five-year mark. Staff also recommend establishing a new by-law structure which will allow each service to be independently increased without rolling back rates on those services where there is no increase. where the service rates form their own by-laws. This will ensure that updating the rates for one service will not trigger a new mandatory discount for the other services. Lastly, staff have worked with Watson and legal counsel to update the by-law to help with ensuring efficiency in administration of the development charges and the removal or justification of discretionary exemptions which duplicate or conflict with exemptions which were mandated by the DCA post-Bill 23.

Financial Implications

DCs are an important tool for municipalities to fund the capital costs associated with growth.

The City collects DCs at the time of the first building permit. Key infrastructure required for growth often needs to be emplaced before the growth occurs. This misalignment between the timing of costs and revenues can result in cash flow challenges for the municipality and may necessitate the use of debt and other financing tools such as front-ending agreements. Reserve and debt projections will be presented as part of the upcoming multi-year budget package, and staff are seeking Council direction to explore other financing tools such as front-ending agreements.

Furthermore, the DCA requires deductions and exemptions which must be funded from non-DC sources. The estimated mandatory exemption and phase-in costs resulting from Bill 23 based on currently available information, including an estimate of the effects of exemptions not yet in effect, total \$227 million over the 10-year DC By-law period, as presented in July 2023.

To clarify numbers previously reported, before Bill 23, the Province had a mandatory exemption for additional residential dwelling units. Bill 23 expanded the applicability of the exemption. The estimated \$34 million cost represents the upper limit of the projected impact of Bill 23 for additional residential dwelling units.

The upcoming budget will provide recommendations for phasing-in the impacts of the additional exemptions and phase-in requirements resulting from Bill 23. Any updates required in the DC capital program will be incorporated into the final version of the DC background study that Council will be asked to approve in January along with the by-law.

Consultations

As previously reported, in partnership with Watson, the City hosted four sessions from November 2022 to June 2023 with a Peer Review group. The group was comprised of private citizens, community representatives, developer representatives, and a Council representative. Topics covered included impacts of Bill 23, growth projections, historical service levels, local service policy, front-ending agreements, public engagement, draft DC rates, and the capital program.

To expand on the above consultation, the City ran a HaveYourSay campaign from July 15 to August 13. A total of 44 people visited the page throughout the campaign. Four comments/questions were submitted. The primary theme of the comments concerned DC exemptions and that developers should pay their fair share of the cost of accommodating growth and reduce the impact of growth on property taxes.

Staff worked with Watson to draft the attached DC by-laws. Staff engaged the internal legal team and engaged external legal counsel to provide a peer review.

Attachments

Attachment-1 2023 Development Charges Background Study

Attachment-2 Presentation of 2023 Development Charges Background Study

Attachment-3 Draft Development Charge By-laws

Departmental Approval

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