



Staff Report

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Report To:	General Government Committee	
Date of Meeting:	November 30, 2020	Report Number: FND-053-20
Submitted By:	Trevor Pinn, Director of Financial Services/Treasurer	
Reviewed By:	Andrew C. Allison, CAO	Resolution#:
File Number:		By-law Number:
Report Subject:	2020 Development Charges Background Study and By-law	

Recommendations:

1. That Report FND-053-20 be received;
2. That the Draft Development Charges Background Study, October 15 2020 and the Addendum to the Development Charges Background Study, November 3, 2020 prepared by Watson & Associates Economists Ltd. be approved and the development-related capital program included therein be adopted, subject to annual review through the Municipality's normal capital budget process;
3. That the municipal-wide development charges quantum for residential and non-residential charges be approved as follows, subject to annual indexing:

Type of Development	Development Charges
Single and Semi-Detached Dwelling	\$ 21,461 per unit
Apartments – 2 Bedrooms or More	\$ 11,426 per unit
Apartments – Bachelor and 1 Bedroom	\$ 7,014 per unit
Other multiples	\$ 17,590 per unit
Industrial	\$ 37.46 per sq.m
Non-Industrial	\$ 107.30 per sq.m

4. That Council in approving the Background Study, expresses its intent to ensure that the increase in the need for services attributable to the anticipated development will be met and any future excess capacity identified in the Study will be paid for by development charges or other similar charges.
5. That for completed applications as determined by the Chief Building Official received on or before January 24, 2021 and (where the development charges have been paid by January 24, 2021) that the applicable development charges be calculated based on By-law 2015-035;
6. That the By-law attached to Report FND-053-20, as attachment 3, be approved to repeal and replace By-law 2015-035;
7. That the Clarington Technology Park Area Specific development charges quantum be approved as follows, subject to annual indexing:

Service	\$ Per Net Hectare
Lands Benefitting Only from Quality Control	\$ 38,840
Lands Benefitting Only from Quantity Control	\$ 29,268
Lands Benefitting from Quality and Quantity Control	\$ 68,107

8. That the By-law attached to Report FND-053-20, as attachment 4, be approved; and
9. That all interested parties listed in Report FND-053-20 and any delegations be advised of Council's decision.

Report Overview

The purpose of this report is to comply with the provisions of the *Development Charges Act*, to obtain Council approval of a new Development Charges Background Study and By-law to establish new development charge fees upon expiry of the existing By-law.

1. Background

2015 Development Charges

- 1.1 On May 14, 2015 Council adopted the existing development charges with the approval of [FND-007-15](#) and By-law 2015-035. This By-law, by legislation, expires after five years or July 1, 2020. As a result, Council approved in the 2019 budget the undertaking of a new development charges study as required under the *Development Charges Act, 1997*.
- 1.2 On April 14, 2020, Council approved the extension of the existing By-law under the powers provided by the Province of Ontario. The *Coronavirus (COVID-19) Support and Protection Act, 2020* received royal assent on April 14, 2020 and provided an extension of six months after the declared emergency under the *Emergency Management and Civil Protection Act* on March 17, 2020 was lifted. This emergency was lifted on July 24, 2020 which sets the expiry of the existing By-law as January 24, 2021.
- 1.3 The legislation only allows calculation of the charge based on the historical average service life of the past ten years. The legislation also does not permit the use of development charges to increase service levels in any category. If the allowable permitted calculation charge under the legislation is not used, the shortfall is transferred to the tax base and the historic average is eroded, such that in the future less development charges can be recovered.

2020 Development Charges Study

- 1.4 Staff from all departments and the Clarington Public Library worked as a steering committee with Andrew Grunda from Watson and Associates, to bring the background study forward in October 2020. In addition, staff were pleased that representatives from the development community attended a meeting in February 2020 to go over the preliminary findings.
- 1.5 The background study introduction provides an overview of the area of focus in this report. The areas of particular emphasis were the growth forecast, the identified capital projects, the proposed new policies and the inclusion of local service definitions.

- 1.6 The Draft Background Study and By-law consider legislative changes up to the date of the draft. The Community Benefits Charge has not been included in this study as staff are continuing to review the applicability of the new revenue stream to the Municipality.

2. Residential Charge

- 2.1 The Municipality currently charges residential development charges based on three categories: single/semi, low density multiples and apartment. There is no differentiation on the size of apartment under the current by-law.
- 2.2 It is recommended that the residential development charges be changed to four categories which are like other municipalities within the Region of Durham, and the Region itself. Under the proposed by-law the categories would be as follows:
- a. Single and Semi-detached dwelling;
 - b. Apartments – 2 bedroom +;
 - c. Apartments – Bachelor and 1 bedroom; and
 - d. Other multiples.
- 2.3 An apartment is a residential building (other than a four-plex or six-plex) containing at least four or more dwelling units that have a common entrance at grade, common corridors, stairs and/or yards. There are now two categories for apartments.
- 2.4 A multiple unit building is a residential building, or portion of a mixed-use building, that contains multiple dwelling units (other than those in an apartment building, linked building, semi-detached building or single detached dwelling) and includes plexes and townhouses.

2.5 The increase in residential charges are as follows:

Category	Current Fee	Proposed Fee	\$ Increase	% Increase
Single and Semi-Detached	\$18,148	\$21,461	\$3,313	18.3%
Apartments – 2 bedrooms or more	8,682	11,426	2,744	31.6%
Apartments – bachelor or 1 bedroom	8,682	7,014	(1,668)	(19.2%)
Other Multiples	14,030	17,590	3,560	25.4%

2.6 It should be noted, that while the increases as a percentage seem high the development charges as a total are still among the lowest in the Greater Toronto Area (GTA). In Durham Region, only Scugog, Uxbridge and the city-wide Pickering (no including Seaton) charges are lower.

3. Non-Residential Charge

3.1 The change in non-residential charges are as follows:

Category	Current Fee	Proposed Fee	\$ Increase	% Increase
Industrial	\$40.72	\$37.46	(\$3.26)	(8.0%)
Non-Industrial	75.04	107.30	32.26	43.0%

3.2 When compared to other GTA municipalities, these charges are below the average.

4. Tax Impact

- 4.1 The existing taxpayer funds any shortfalls for the cost of growth-related services which is not collected through the development charge. In the background study, section 5 includes the cost of growth-related projects which are funded by development charges. Costs identified under “Benefit to Existing Development” must be funded by other sources other than development charges.
- 4.2 Recent changes in the *Development Charges Act* no longer require a mandatory 10% reduction of recoverable costs, therefore only the benefit to existing taxpayers are required to be funded by existing taxpayers. This is a more equitable arrangement and furthers the philosophy that growth pays for growth.
- 4.3 Existing taxpayers must fund the cost of any incentives provided. Paragraph 3 of Subsection 5(6) of the Act states “if the Development Charges by-law will exempt a type of development, phase in a development charge or otherwise provide for a type of development to have a lower development charge than is allowed, the rules for determining development charges may not provide for any resulting shortfall to be made up through higher development charges for other development.”
- 4.4 Per the above regulations, if the charge, as calculated is phased-in the difference between the approved charge and the calculated charge must be funded by taxpayers. This would shift the burden of growth to the existing taxpayer.

5. Meeting with Developers

- 5.1 Staff from the Municipality and Watson & Associates Ltd. met with the development community on February 19, 2020 to provide an overview of the background study, the methodology applied in the development charge calculation and to provide an opportunity for questions to be answered. The meeting was set up over and above the requirements of the *Development Charges Act* and in addition to the scheduled public meeting for November 30, 2020 (originally intended for May 2020). The meeting was advertised through multiple avenues and was well attended.

6. Statutory Public Meeting

- 6.1 The Act requires that at least one statutory public meeting is held with public notice being provided at least 20 days in advance. The draft study and by-law must also be available at least two weeks prior to the public meeting.

- 6.2 A public notice was placed in the Orono Times on November 4, 11 and 18. A public notice was also placed in the Clarington This Week on November 5, 12 and 19. These advertisements meet the statutory requirement for public notice at least 20 days in advance, with additional notices within that period of time as reminders.
- 6.3 The draft study was posted on the Municipality's website on October 14, 2020 and an addendum was placed on November 8, 2020 (as a result of missing pages in the original document). The original document and the addendum were publicly available for more than two weeks on our website, in compliance with the statutory requirements.

7. Exemptions and Refunds

- 7.1 There are some exemptions and refunds provisions in the proposed Development Charges By-law. These are detailed in sections 22 to 38 of the proposed Development Charges By-law. Included in the proposed exemptions are:
- a. Revitalization areas;
 - b. Agricultural development;
 - c. Certain public buildings;
 - d. Contaminated sites;
 - e. Historic downtown redevelopments;
 - f. Research laboratory exemptions; and
 - g. Places of worship.
- 7.2 Changes to exemptions and refunds from the previous By-law primarily relate to the deletion of an exemption for masonry-clad buildings of a required height. This exemption was intended to incent high-density mixed-use development, staff found that this exemption was not producing the anticipated results and was difficult to administer. It was felt that this exemption is no longer required.

8. Future Potential Exemptions

- 8.1 As the Development Charges By-law is reviewed at least every five years, exemptions and incentives not producing the results anticipated can be enhanced, modified or eliminated. If an exemption is producing unintended results, amendments can be made during the life of the By-law, subject to requirements for a statutory public meeting and public notice.

- 8.2 Development Charge exemptions are imperfect tools to achieve some desired goals. While development charge exemptions are a type of incentive that the Municipality can provide, they are not the only incentive. In some cases, the provision of a grant along with the attendant rules that the Municipality can impose are more successful tools for accomplishing specific goals.

9. Exemption Where Permits Applied For

- 9.1 The effective date of change in the quantum is recommended as January 24, 2021. It is recommended that building permit applications that are in on or before January 23, 2021 and are complete will not be subject to the new By-law. The increase in the charge is imposed at the time of issue of the building permit and so a specific resolution has been added to this report.

10. Communications Received

- 10.1 Some communications have been received in advance of the statutory public meeting due to public consultation undertaken to date. Responses are being drafted and will be provided in a subsequent update to Council following the public meeting along with any new responses from the public meeting.

SCS Consulting Group

- 10.2 Please see attached letter from SCS Consulting Group, attachment 5. SCS Consulting represents the Southeast Courtice Landowners. The group is suggesting several additional projects to be included in the Development Charges Study.
- 10.3 It should be noted that the Municipality is currently conducting several Secondary Plans in 2020 through 2023. These Secondary Plans will establish the development plans for those areas. It is suggested that once these Secondary Plans are complete that the Municipality revisits the development charges study in order to update any growth related capital which is identified from these Secondary Plans. This is a common practice amongst high-growth municipalities in the GTA.

Durham Region Home Builders' Association

- 10.4 Attachment 6 is a letter from the Durham Region Homebuilders Association dated November 12, 2020. This letter outlines several questions regarding specific projects included in the draft background study. Staff and the consultants will be working to address these questions with the Association.

Willie Woo – Durham Hospice Clarington

- 10.5 Attachment 7 is a letter from Mr. Willie Woo representing the Durham Hospice Clarington project. The letter outlines a request for consideration of including an exemption for hospices in the DC by-law. The letter highlights that the Town of Whitby had an exemption in their 2017 DC by-law.
- 10.6 The Town of Whitby is currently reviewing their DC by-law with an expectation of adoption in the spring of 2021. It is my understanding that the Town is considering eliminating the exemption for hospices as a result of a recent change in the Act which requires a mandatory five-year deferral of development charges.
- 10.7 Any exemption provided to the hospice would need to be funded by taxpayers, this would be an addition of over \$110,000 to the tax base. Staff report FND-047-20 outlines the Development Charges Interest Policy, within the policy it is recommended that hospices have the deferral of development charges at zero per cent interest. This interest rate is not required to be funded by taxpayers and represents an in-kind contribution to any qualifying project.

Municipal Solicitor

- 10.8 The Director of Legislative Services/Municipal Solicitor has provided some additional comments on the wording of the draft by-law subsequent to the release of the draft document.
- 10.9 It is suggested that paragraph 5 of section 18 remove the reference to “temporary buildings” as those are defined and exempted in section 28. Further, he has concern that this section limits Council’s broad authority under S.27 of the Act to enter into deferral agreements. If Council wishes to delegate authority to staff to enter into deferral agreements this should be expressly included in the by-law.
- 10.10 It is suggested that paragraph 3 of section 35 regarding brownfield credits be eliminated. This paragraph states that the brownfield credits do not apply to redevelopment for a gas service station or uses developed in conjunction with a gas service station. This section has also been brought up by several members of Council in the past. If Council wishes to incent the redevelopment of gas stations into other uses this section should be discussed.
- 10.11 A red-line version of the by-laws with the Director of Legislative Services/Municipal Solicitor’s comments are included in attachment #8. These comments plus any other comments from the public meeting will be included in the final draft being brought to Council on December 14, 2020.

11. Concurrence

This report has been reviewed by the Director of Legislative Services/Municipal Solicitor and the Acting Director of Planning and Development Services who concur with the recommendations.

12. Conclusion

It is respectfully recommended that the recommendations outlined are approved and that the development charges by-law be approved with an implementation date of January 24, 2021.

Staff Contact: Trevor Pinn, CPA, CA, Director of Financial Services/Treasurer, 905-623-3379 ext.2602 or tpinn@clarington.net.

Attachments:

Attachment 1 – 2020 Development Charges Background Study, dated October 15, 2020

Attachment 2 – Addendum to: 2020 Development Charges Background Study, dated November 3, 2020

Attachment 3 – Draft Municipal Wide Development Charges By-law

Attachment 4 – Draft Area-specific Development Charges By-law

Attachment 5 – Letter from SCS Consulting Ltd.

Attachment 6 – Letter from Durham Home Builders Association

Attachment 7 – Letter from Mr. Willie Woo, Durham Hospice Clarington

Attachment 8 – Suggested changes from the Municipal Solicitor

Interested Parties:

List of Interested Parties available from Department.