TORONTO

STAFF REPORT
ACTION REQUIRED

Development Charges – Background Study and Proposed By-law

Date:	October 27, 2008
To:	Executive Committee
From:	City Manager Acting Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2008\Internal Services\SP\ec08011SP (AFS# 6746)

SUMMARY

The City of Toronto collects development charges from new construction to pay for a portion of municipal growth-related capital costs. The City's existing Development Charge By-law expires on July 27, 2009. A new Development Charge Background Study has been prepared, as required by the *Development Charges Act, 1997*. The purpose of this report is to present the City of Toronto 2008 Development Charge Background Study and the proposed Development Charge By-law for consideration at a statutory public meeting.

The charges calculated in the Background Study are the maximum charges that could be imposed under the *Development Charges Act, 1997*. These represent significant increases over current rates and are the result of expanded capital programs, inflation, legislative changes affecting cost recovery for the Toronto-York Spadina subway extension, refinement of the methodology for calculating the charge, and the inclusion of new services.

Given the recent weakness in the global economy, it was considered inappropriate to introduce a large increase in development charges at this time. Therefore, the phase-in provisions in the proposed by-law contain a freeze in development charges until January 31, 2010, and provide a four-year phase-in of the rest of the allowable increase, only if housing construction meets the thresholds as set out in the by-law

The proposed by-law continues many of the current residential and non-residential exemptions, including exemptions for affordable rental housing and industrial development. Employment uses qualifying under the recently-approved Imagination, Manufacturing, Innovation and Technology Financial Incentives Program are proposed to be eligible for a full exemption. For

other non-exempt, non-residential uses, it is proposed that development charges apply to the ground floor area only. In addition, a partial development charge rebate is proposed for developments that meet Tier 2 of the Toronto Green Standard. These and other definitional changes in the proposed by-law are unaffected by the phase-in provisions, which apply only to the level of the charge, and shall be effective from the date that the proposed by-law comes into force.

After the November 10, 2008 statutory public meeting of Executive Committee, staff will report directly to Council on any recommended changes to the proposed Development Charge By-law resulting from public comments and Committee direction.

RECOMMENDATIONS

The City Manager and the Acting Deputy City Manager and Chief Financial Officer recommend that:

1. for the purpose of complying with the *Development Charges Act, 1997,* Council adopt the City of Toronto 2008 Development Charge Background Study, dated October 23, 2008;

2. Council adopt the 2008 Proposed Development Charge By-law, attached to this report as Appendix 1, and that the City Solicitor in consultation with the Acting Deputy City Manager and Chief Financial Officer be authorized to make such stylistic and minor amendments to the by-law as necessary to give effect to the recommendations contained herein; and

3. staff be directed to report to the December 1 and 2, 2008 meeting of City Council, subsequent to receipt of public comments at the November 10, 2008 statutory public meeting, on any recommended changes to the proposed 2008 Development Charge By-law.

Financial Impact

The Background Study calculates the maximum permitted development charges as allowed under the *Development Charges Act, 1997*. Council, however, can elect to adopt a charge that is less than the maximum charge as calculated in the Background Study. In deciding whether to impose the charge as calculated or some reduced amount, the City must balance its revenue needs against the potential impact a large increase in development charges could have on the City's long-term economic development, financial and planning objectives.

The proposed by-law attempts to balance these objectives by phasing in the increase only if economic conditions warrant. Specifically, the proposed by-law freezes rates for the first year

and then phases in the maximum charge over the subsequent four years, only if building permits are issued for more than 9,000 residential units per year. If building permits are issued for less than 7,000 residential units per year, there will be no increase in the charges (other than cost inflation). If permits are issued for between 7,000 and 9,000 residential units per year, only part of the maximum increase would be phased in.

Under this transitional provision, it is possible, given a robust real estate market, that the full calculated increase would be phased in over the life of the proposed by-law. Conversly, if new housing construction activity is poor, little if any of the calculated increase would be phased in.

Given this interdependency between the amount of the charge and the level of construction activity, it is not possible to estimate with any degree of accuracy the amount of development charge revenue that will be realized over the 5-year life of the by-law. Appropriate adjustments to the City's capital plans will have to be made to reflect prevailing economic conditions and the level of available capital financing including development charge revenue.

DECISION HISTORY

As part of the 2007 capital budget deliberations, Council authorized a review of the City's Development Charge By-law. Executive Committee, at its meeting on October 29, 2007, requested staff to expedite the studies necessary for the adoption of a new Development Charge By-law. Prior to adopting a new Development Charge By-law, the legislation requires that the City hold at least one public meeting, pursuant to section 12 of the *Development Charges Act, 1997* (the "DC Act").

Council at its meeting on March 3, 4 and 5, 2008 delegated the authority and responsibility for holding a public meeting pursuant to section 12 of the DC Act, to the Executive Committee. The link to that decision is as follows (Item EX17.5 begins on page 5):
http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf

ISSUE BACKGROUND

The DC Act permits municipalities to pass by-laws to impose development charges against land to pay for growth-related capital costs of eligible City services. Development charges (DCs) are used by the City to assist in the funding of capital costs arising from growth. This capital financing tool is integral to the City's long-term fiscal stability.

The City's current Development Charge By-law (No. 547-2004) was adopted by Council in June 2004 and imposes a charge on residential and "retail" development, as defined. Copies of the 2004 development charge staff reports, staff presentations, background study and by-law, can be found at the following link: http://www.toronto.ca/finance/dev_charges_bckgrdrpts.htm . While the current by-law is scheduled to expire in 2009, recent amendments to the DC Act, and progress made on major infrastructure projects such as the Toronto-York Subway extension and

the Waterfront revitalization, coupled with the ongoing long-term capital planning process and the need for capital funding, make this an appropriate stage for the review.

Before a new Development Charge By-law can be passed, the DC Act requires that a background study be completed and, together with a proposed by-law, be made available to the public at least two weeks prior to the statutory public meeting. The City has retained the consulting services of Watson & Associates Economists Ltd. to assist in the preparation of the requisite development charge background study, and staff initiated consultations with key stakeholders including representatives of the land development and building industry, the Toronto Board of Trade, and the Toronto Real Estate Board.

COMMENTS

1. Introduction

This report presents the City of Toronto 2008 Development Charge Background Study, dated October 23, 2008 (the "Background Study"), for the consideration of Committee and Council. Also forwarded for consideration at a statutory public meeting of Executive Committee is the proposed 2008 Development Charge By-law. The by-law is attached as Appendix 1 to this report. The complete Background Study is available at the City Clerk's office at:

City Hall
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

The Background Study is also available online, separated into various segments so that not all need be downloaded at one time, along with other relevant DC information, on the City's web site at the following address: http://www.toronto.ca/finance/dev_charges_bylaw_review/index.htm .

This report recommends that, following the public meeting, staff report back directly to City Council on any recommended changes to the proposed Development Charge By-law resulting from comments received from the public and stakeholders and/or the Committee's direction.

This report is organized as follows:

Section 2: Key provisions in the current and proposed DC by-laws
Section 3: Public consultation process to date and the key comments received
Section 4: Discussion of calculated development charges and comparisons with existing charges
Section 5: Services included and excluded in the calculated development charges
Section 6: 10-year capital program and development charges recoverable
Section 7: Comparison of calculated charges with other GTA municipalities
Section 8: Discussion of key differences between proposed and current DC By-laws
Section 9: Discussion of other issues arising with respect to the proposed DC By-law
Section 10: Conclusions

2. Key Provisions in the Current and Proposed DC By-laws

Table 1: Summary Comparison of Key Provisions in the Current and Proposed Development Charge By-laws

Description	Current By-law (2004)	Proposed By-law
1. Residential charge	- 82% of the calculated charge implemented in 1 year - Small multiples and dwelling rooms subject to lower charge	- Depending on economic conditions between 0% and 100% of the calculated increase to be implemented over 4 years starting in Feb 2010 - Small multiples and dwelling rooms subject to lower charge
2. Non-residential charge	- 100% of the calculated charge implemented in 1 year - Industrial uses - exempt - Retail uses – full charge - All other non-res – exempt	- Depending on economic conditions between 0% and 100% of the calculated increase to be implemented over 4 years starting in Feb 2010 - Industrial uses - exempt - All other non-res – charge on ground floor only; all other floors exempt
3. Phase-in	- One-year phase-in - One-half of the increase after 6 months (Jan 1/05) - Full charge after 1 year (July 1/05)	- Rates frozen for 1 year – Feb 1, 2009 – Jan 31, 2010 - Possible annual increases on each Feb. 1, from 2010 to 2013, based on number of residential units issued building permits in prior year, as follows (% of the calculated increase): • < 7,000, 0% of increase; • 7,000-7,500, 5% of increase; • 7,501-8,000, 10% of increase; • 8,001-8,500, 15% of increase; • 8,501-9,000, 20% of increase; • > 9,000, 25% of increase* - Potentially 100% of the calculated increase phased in by Feb 1, 2013

Description	Current By-law (2004)	Proposed By-law
4. Grandparenting	- Building permits received by Dec 31/04 (6 months after By-law adoption) and issued by Dec 31/05 paid the 2004 DC rates	- Implementation delayed until Feb. 1, 2009 - Rates frozen at the level in effect on January 31, 2009
5. Non-discretionary exemptions	a) Statutory - Enlargement of existing dwelling units - 1 or 2 additional units in an existing building (with restrictions) - Lands for municipal or board of education purposes - 50% enlargements to industrial developments b) Other (case law) - Crown agencies - Provincial and Federal governments	
6. Discretionary Exemptions	Residential - Non-profit (rental) housing - Dwelling units with RRAP funding - Dwelling rooms in a rooming house Non-residential - Accessory uses less than 10 sq. m. - Colleges and universities** - Public hospitals** - Places of worship & cemeteries - Temporary structures - Industrial uses	
	- Non-retail non-residential development (i.e., only "retail" uses subject to charge).	- Non-residential development qualifying under the IMIT Financial Incentives Program - All non-residential development located above or below the ground floor (i.e., only <u>ground floor</u> GFA is subject to the charge)
7. Incentive Discounts	- N/A	- 20% DC refund for achieving Tier 2 of the Toronto Green Standard

Description	Current By-law (2004)	Proposed By-law
8. Redevelopment	- Reduction applicable to residential to residential redevelopment only - Reduction applicable to non-residential to non-residential redevelopment based on total floor area demolished or converted	- Reduction applicable to all redevelopment of existing residential uses - Reduction applicable to non-residential to non-residential redevelopment based on the chargeable floor area demolished or converted
9. Indexing	- Adjusted using a prescribed index annually commencing on Jan 1, 2006	- Adjusted using a prescribed index annually commencing on Feb 1, 2010

* Please see Table 8 for maximum potential residential development charge rates over the life of the proposed by-law.
** The enabling legislations for many public hospitals, colleges and universities provide for an exemption from the payment of development charges.

3. Public Consultation Process

Staff consulted with representatives from the land development industry, business associations and ratepayer groups through the following activities:

- Three consultation meetings with the land development industry and business association representatives

- Ongoing communication with development industry representatives regarding technical issues relating to the Background Study calculations and the proposed by-law

- Presentations to the Toronto Board of Trade, and the Building Industry and Land Development Association and Ward 25 Ratepayers, at their request.

Appendix 2 provides a summary of the consultation meetings and a high-level summary of issues raised. Appendix 2A includes the written submission from the Toronto Real Estate Board (TREB), along with a preliminary response from staff.

4. Development Charge Background Study and Proposed By-law

The Background Study has been prepared pursuant to section 10 of the DC Act. The study sets out the requirements of the DC Act and the approach taken by the City in meeting these requirements. It also provides in comprehensive detail the methodology utilized in determining the maximum level of charges (Table 2 below) that can be imposed under the legislation. The Background Study is accessible through an online link to this report and is referred to as Appendix 5 to this report, although not physically attached. The proposed (2008) DC By-law is attached as Appendix 1 to this report.

Residential development charges are differentiated on the basis of type of unit, with single and semi-detached units subject to a comparatively higher charge than units such as townhouses and apartments. The different residential unit charges are based upon occupancy rates of those units. The charges applicable to non-residential development are calculated on the basis of the anticipated non-residential gross floor area and are not differentiated by type of non-residential use. Various types of residential and non-residential development are exempted from development charges in the proposed by-law, due to either statutory or public policy reasons.

Table 2: Schedule of Calculated Development Charges

Development Type	Calculated Development Charges
Residential (per unit)	
Single/Semi-Detached	$25,095
Apartment 2-Bedroom/Larger	$16,007
Apartment 1-Bedroom/Bachelor	$10,920
Multiple Unit	$20,348
Dwelling Room	$6,783
Non-Residential	
Per sq. ft. of gross floor area	$16.45
Per sq. m. of gross floor area	$177.07

Compared to the 2004 calculated maximum charges indexed to 2008, the increase in the residential charges is of the order of about 90% (see Table 3 below). However, since Council elected to impose a residential charge reduced by 18% of the calculated charges in 2004, the 2008 calculated maximum charges represent about a 130% increase over the current level of residential charges. In the case of the charges for non-residential development, Council did not reduce the calculated charges in 2004 and hence the 2008 calculated maximum charges represent an increase of 100% over the current non-residential charges. Table 4 presents the increase in the rate for a two-bedroom or larger apartment unit by municipal service.

Table 3: Comparison of 2008 Calculated Charges with 2004 Calculated Charges and Current Charges

Development Type	2004 Calculated Charges	2004 Calculated Charges Indexed to 2008	Current Charges* (since Jan. 1, 2008)	2008 Calculated Charges	% Increase over 2004 Calculated Charges Indexed to 2008	% Increase over Current Charges
Residential (per unit)						
Single/Semi-Detached	$11,053	$13,497	$11,082	$25,095	86%	126%
Apartments 2-Bedroom or Larger	$7,169	$8,754	$7,187	$16,007	83%	123%
Apartments 1-Bedroom or Bachelor	$4,455	$5,440	$4,467	$10,920	101%	144%
Other Multiples	$8,797	$10,742	$8,819	$20,348	89%	131%
Dwelling Room	$2,856	$3,487	$2,864	$6,783	95%	137%
Non-Residential (per sq. m.)						
Retail	$72.87	$88.98	$88.98	$177.07	99%	99%
All other non-residential (industrial, office, etc.)	$72.87	$88.98	$0.00		99%	n/a

*Current residential DC rates include an 18% discretionary reduction approved by Council in 2004.

Table 4: Calculated Development Charge Schedule Per Two-Bedroom Apartment Unit

	Services	A Jan. 1/08 Current Charge	B Calculated Charge	C B-A Increase from Current Charge	D Percentage Increase from Current Charge
A	MISC. TAX FUNDED SERVICES				
1	Childcare	36	177	142	397.3%
	Emergency Shelters	31		-31	
	Subsidized Housing	242	1,474	1,232	
2	Sub-total Shelters/Housing	273	1,474	1,201	439.7%
	Ambulance Facilities				
	Ambulance Vehicles				
3	Sub-total Emergency Medical Services	36	23	-13	-35.6%
	Recreation Facilities				
	Parkland Development				
4	Sub-total Parks and Recreation	955	2,364	1,409	147.5%
5	Civic Improvements	58	177	119	206.1%
6	Development Related Studies	79	226	147	185.5%
	Library Facilities				
	Library Materials				
7	Sub-total Library	446	893	448	100.5%
8	Fire Facilities	65	127	62	96.0%
9	Police	93	294	201	215.0%
10	Health	0	43	43	n/a
11	Pedestrian Infrastructure	0	6	6	n/a
	Sub-total Misc. Tax Funded Services	2,040	5,804	3,764	184.5%
B	ROADS				
12	Roads	1,782	2,769	986	55.3%
C	TRANSIT				
	Spadina Subway Extension	195	1,849	1,654	
	Balance of Transit	1,796	2,707	911	
	Sheppard Subway Oversizing				
	Union Station Platform				
	Bus Surface Rapid Transit				
	Subway Expansion				
	Commuter Parking Lots				
	RT Cars, Buses, Streetcars, Subwaycars				
	GO Transit				
13	Sub-total Transit	1,991	4,556	2,565	128.8%
D	RATE FUNDED SERVICES				
	Water Pollution Control Plant				
	Sanitary Sewers				
14	Sub-total Sanitary Sewers	1,121	409	-713	-63.5%
	Water Supply				
	Water Mains				
15	Sub-total Water	79	2,127	2,048	2588.0%
16	Storm Water Management	173	342	169	98.1%
	Sub-total Rate Funded Services	1,373	2,878	1,505	109.6%
E	SUMMARY				
	Misc. Tax Funded Services	2,040	5,804	3,764	184.5%
	Roads	1,782	2,769	986	55.3%
	Transit	1,991	4,556	2,565	128.8%
	Rate Funded Services	1,373	2,878	1,505	109.6%
	TOTAL	7,187	16,007	8,820	122.7%

The increase in the 2008 calculated charges is the result of a number of factors, as set out in the Background Study, and can be broadly attributed as follows:

- increased 10-year service level cap and reduced benefit to existing development deductions for soft services – 38%
- other factors, including updated capital plans, cost inflation, revised post-period capacity allowances – 33%
- legislative changes relating to the Toronto-York subway extension – 18%
- expanded service program for the Waterfront – 7%
- inclusion of new services – 4%

5. Services Included/Excluded in Calculated DCs

a) Services Included in Calculated Development Charges

The calculated development charges are based on the inclusion of the services as set out in Table 5 below.

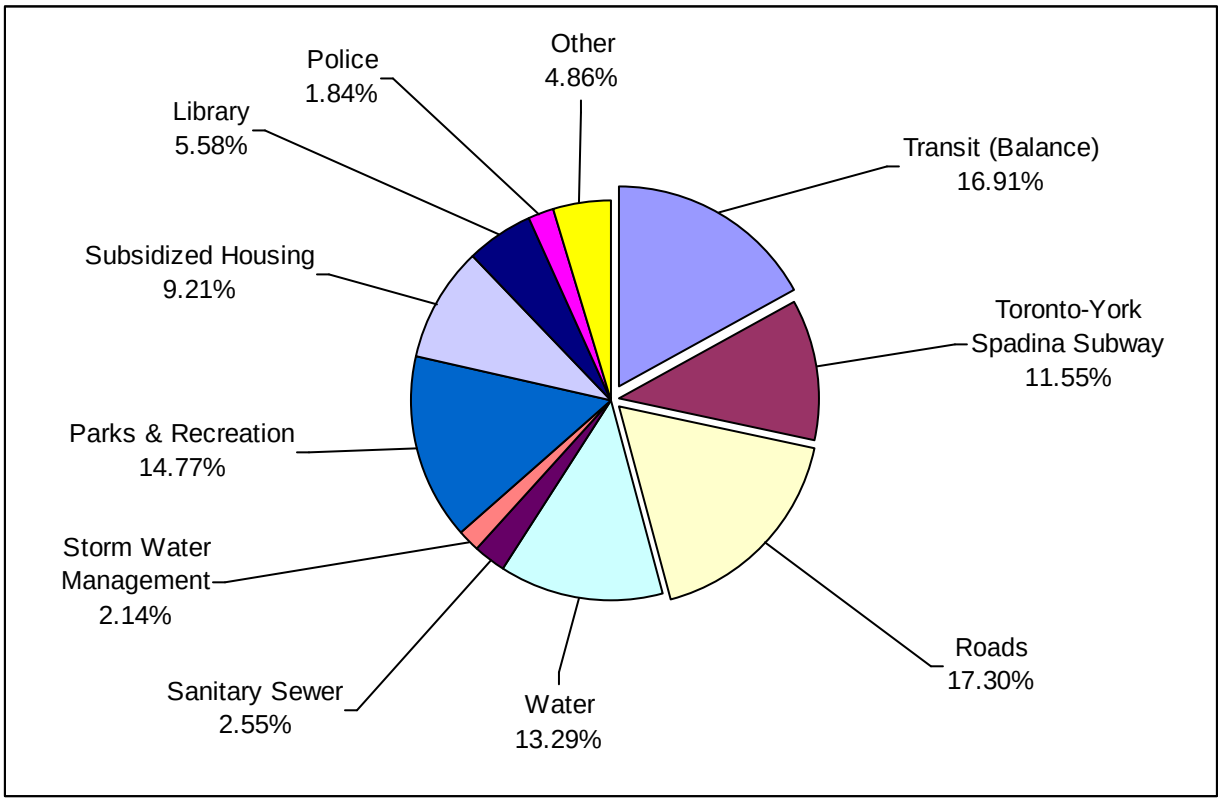
Table 5: Services Included in Calculated Development Charges

Type	Description
A. Roads	1. Roads
B. Transit	2. Toronto-York Subway Extension 3. Transit (balance)
C. Other tax-supported services	4. Childcare 5. Civic Improvements* 6. Development Related Studies 7. Emergency Medical Services 8. Fire Facilities 9. Health** 10. Subsidized Housing 11. Library 12. Parks and Recreation 13. Pedestrian Infrastructure** 14. Police
D. Rate-supported services	15. Sanitary Sewer 16. Storm Water Management 17. Water

* Previously "Urban Development Services"
** New development charge service

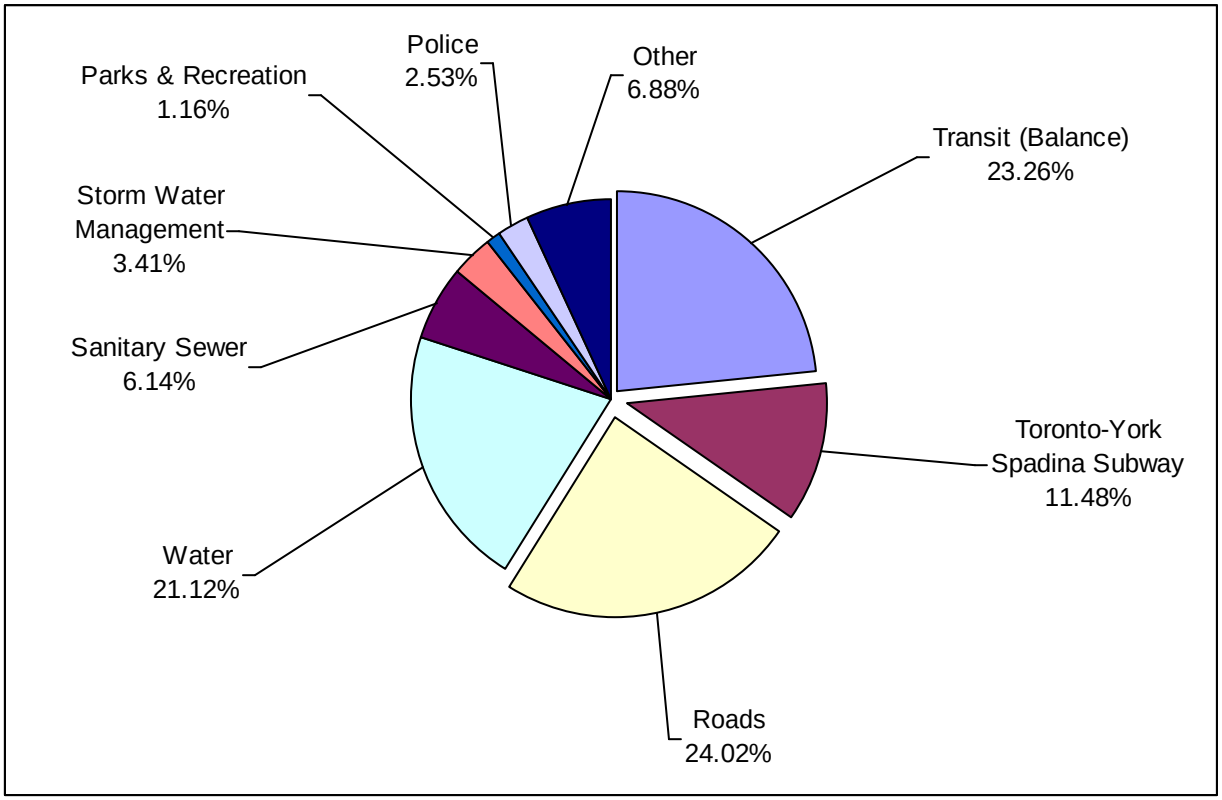
Figures 1 and 2, below, provide the composition of the residential and non-residential calculated development charges by service. Under the DC Act, development charge revenues are to be allocated to separate reserve funds in accordance with the percentage distribution as shown in Figures 1 and 2.

Figure 1: Composition of Calculated Residential Development Charges by Service (%)



Note: "Other" includes Childcare, Civic Improvement, Development-related Studies, Emergency Medical Services, Fire, Health, and Pedestrian Infrastructure.

Figure 2: Composition of Calculated Non-Residential Development Charges by Service (%)



Note: "Other" includes Childcare, Civic Improvement, Development-related Studies, Emergency Medical Services, Fire, Health, Pedestrian Infrastructure, and Subsidized Housing.

b) Services Not Included in Calculated Development Charges

The following services are not included in the 2008 calculated development charges. The reasons for their exclusion range from specific statutory ineligibility to an absence of the required development-related capital plans.

Table 6: Services Not Included in Calculated Development Charges

Statutory Ineligibility	No Development-Related Capital Plans
• Parkland Acquisition • Electrical Power Services • Cultural, Entertainment and Tourism Facilities • Solid Waste Management • Hospitals • Administrative Headquarters	• Emergency Shelters • Homes for the Aged

6. 10-Year Capital Program and Development Charges Recoverable

A summary of the City's 10-year capital program and the deductions made thereto, in accordance with the DC Act, is presented in Appendix 3. The capital cost of the entire 10-year program of the services included in the 2008 calculated development charges is $8.7 billion. Of this amount, $1.5 billion has been determined to be development charges-recoverable over the next 10 years. The difference between these two amounts ($7.2 billion) comprises the following deductions, pursuant to the DC Act:

- $0.9 billion Beyond 10-year historical service level cap
- $2.5 billion Benefit to existing development
- $3.0 billion Subsidies and other contributions
- $0.7 billion Post-2018 capacity
- $0.1 billion 10% statutory deduction (for certain services)

  =========

  $7.2 billion Total deductions

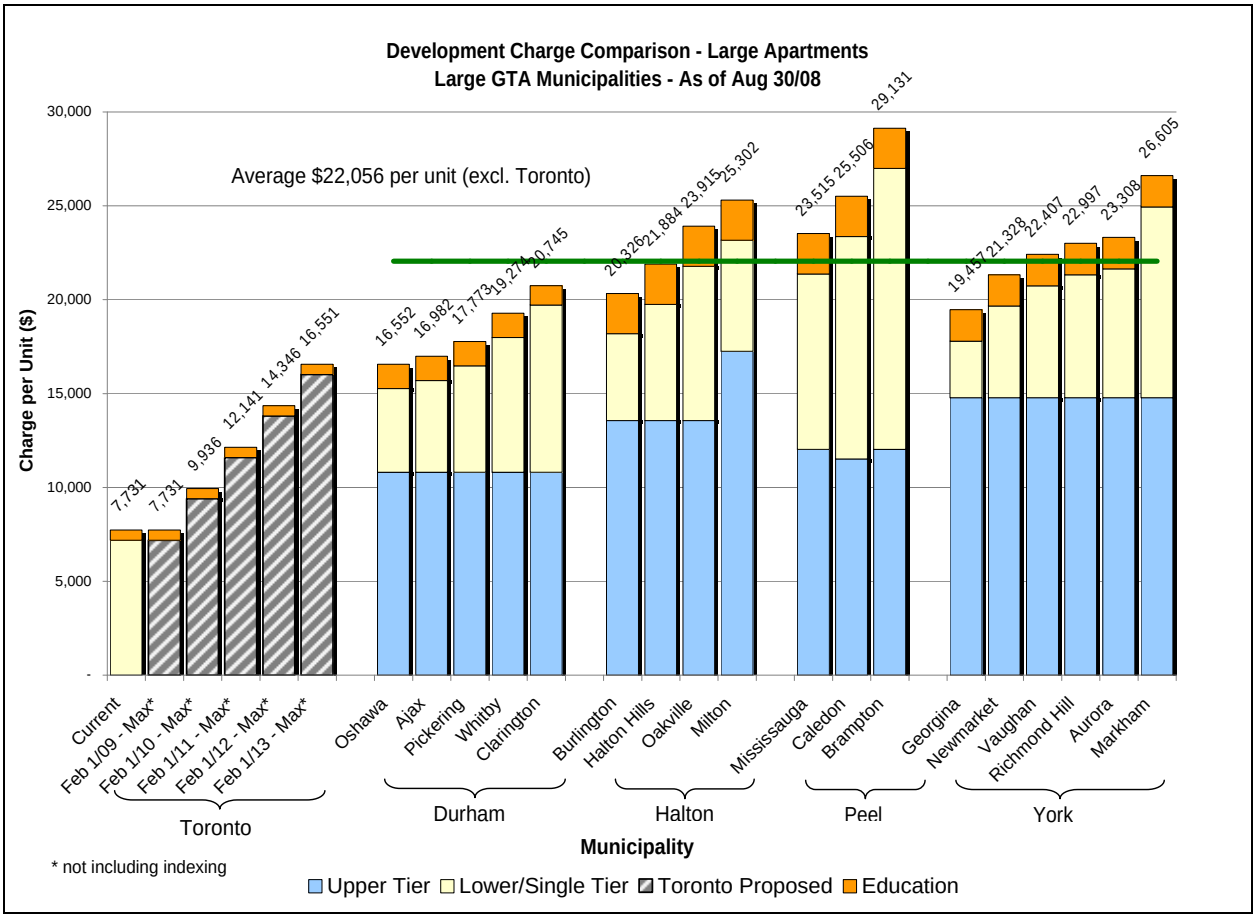
The actual amount of revenue to be realized is dependant on a number of factors, including the amount of the adopted charge, the amount and type of development occurring and the impact of potential policy decisions such as the granting of full or partial exemptions to certain land uses, the phasing-in of the charge and other possible transition provisions.

7. Comparison of Calculated Charges with Other GTA Municipalities

It is important to note that in a mature urban municipality such as Toronto, one would expect that the DC rates would be lower than in less mature "greenfield" municipalities. In Toronto, unlike less developed municipalities, much of the infrastructure is in place and to a large extent can accommodate growth.

Figure 3 provides a comparison of residential development charge rates in the surrounding GTA municipalities (population greater than 25,000) with the current and the 2008 calculated development charges for the City. While the 2008 calculated charges represent a substantial increase over the current level of development charges in the City, the charges remain below the average residential rate currently imposed in the GTA.

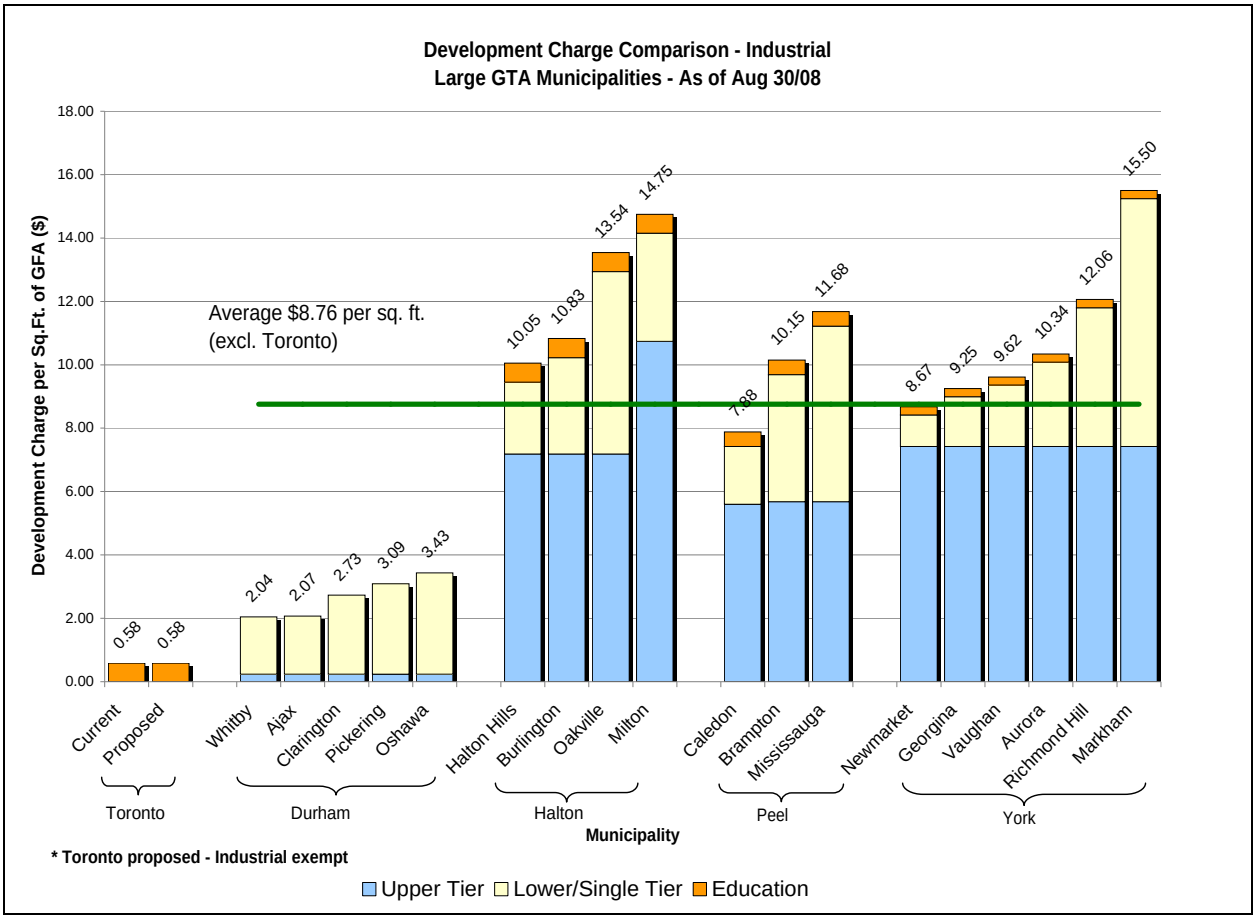
Figure 3: Uniform Residential Development Charges – GTA, Per Fully Serviced Large Apartment Unit (As of August 30, 2008)



Note: The proposed 2009 -2013 DC rates for the City exclude annual indexing and assume the maximum potential increase.

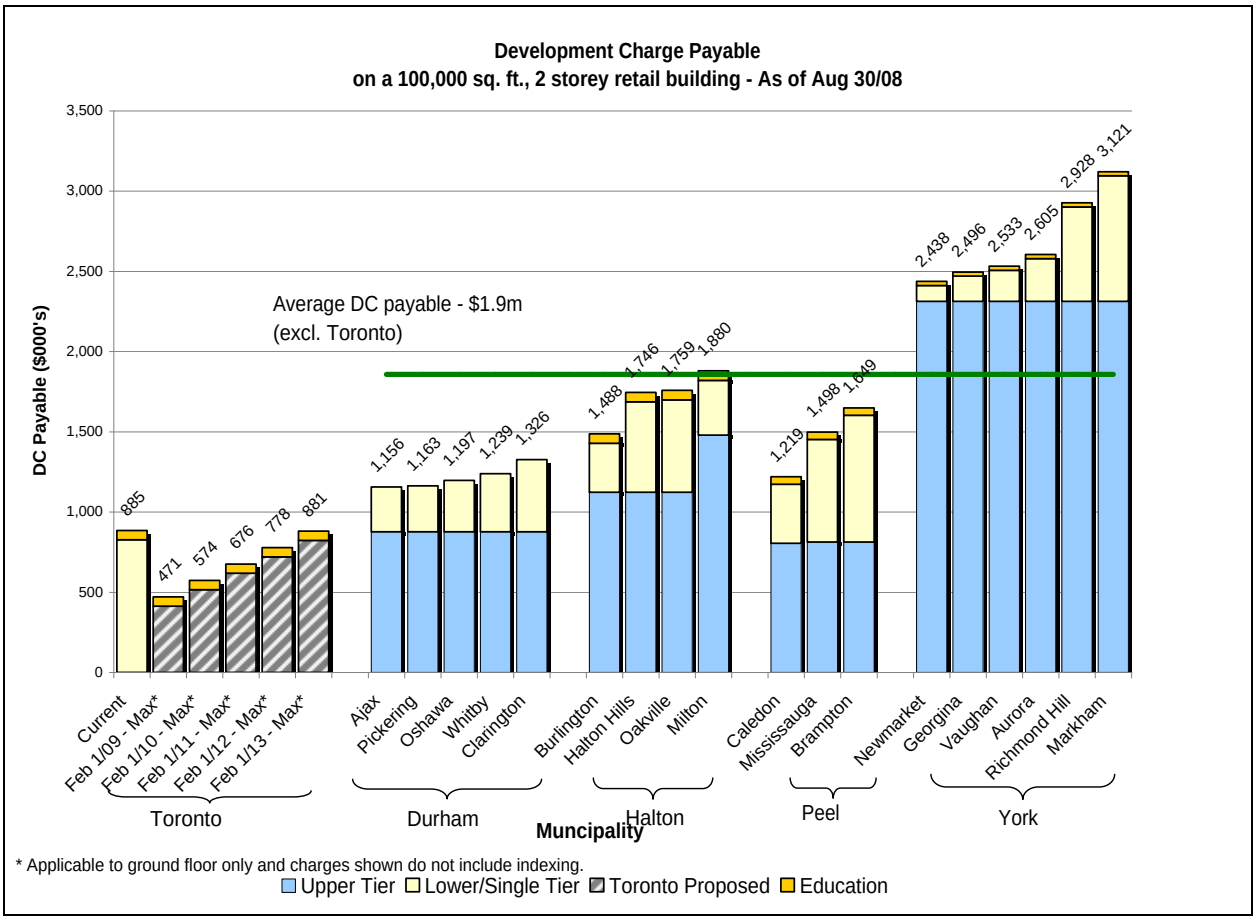
With respect to non-residential development, the proposed By-law continues the municipal exemption for industrial development. However, the Toronto Catholic District School Board has chosen to allow no discretionary exemption in its development charges by-law. Figure 4 provides a comparison of industrial development charge rates (including education DCs imposed by school boards) in the surrounding GTA municipalities (population greater than 25,000) with the City's current and proposed rates.

Figure 4: Uniform Industrial Development Charges – GTA (As of August 30, 2008)



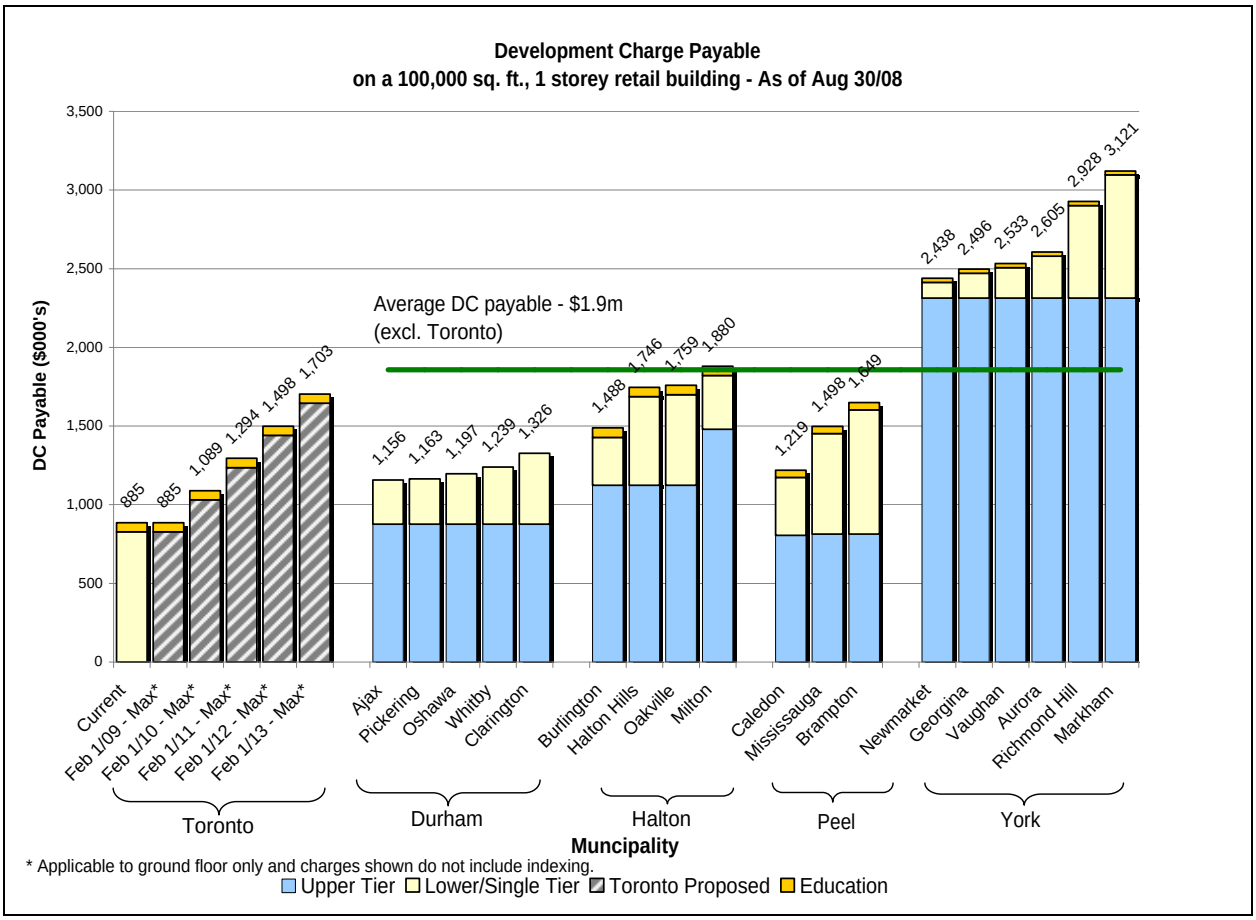
With respect to retail development, Figures 5 and 6 compare the total municipal and education DCs payable on a two- and one-storey, respectively, 100,000 sq. ft. retail development in the surrounding GTA municipalities (population greater than 25,000) with the City's current non-residential charge and the proposed ground floor non-residential charge. For the two scenarios presented the amount of development charges payable in Toronto remains below the average payable in the surrounding GTA municipalities.

Figure 5: Development Charges Payable – GTA, Two-storey, 100,000 sq.ft. Retail Building (As of August 30, 2008)



Note: The proposed 2009 -2013 DC rates for the City exclude annual indexing and assume the maximum potential increase.

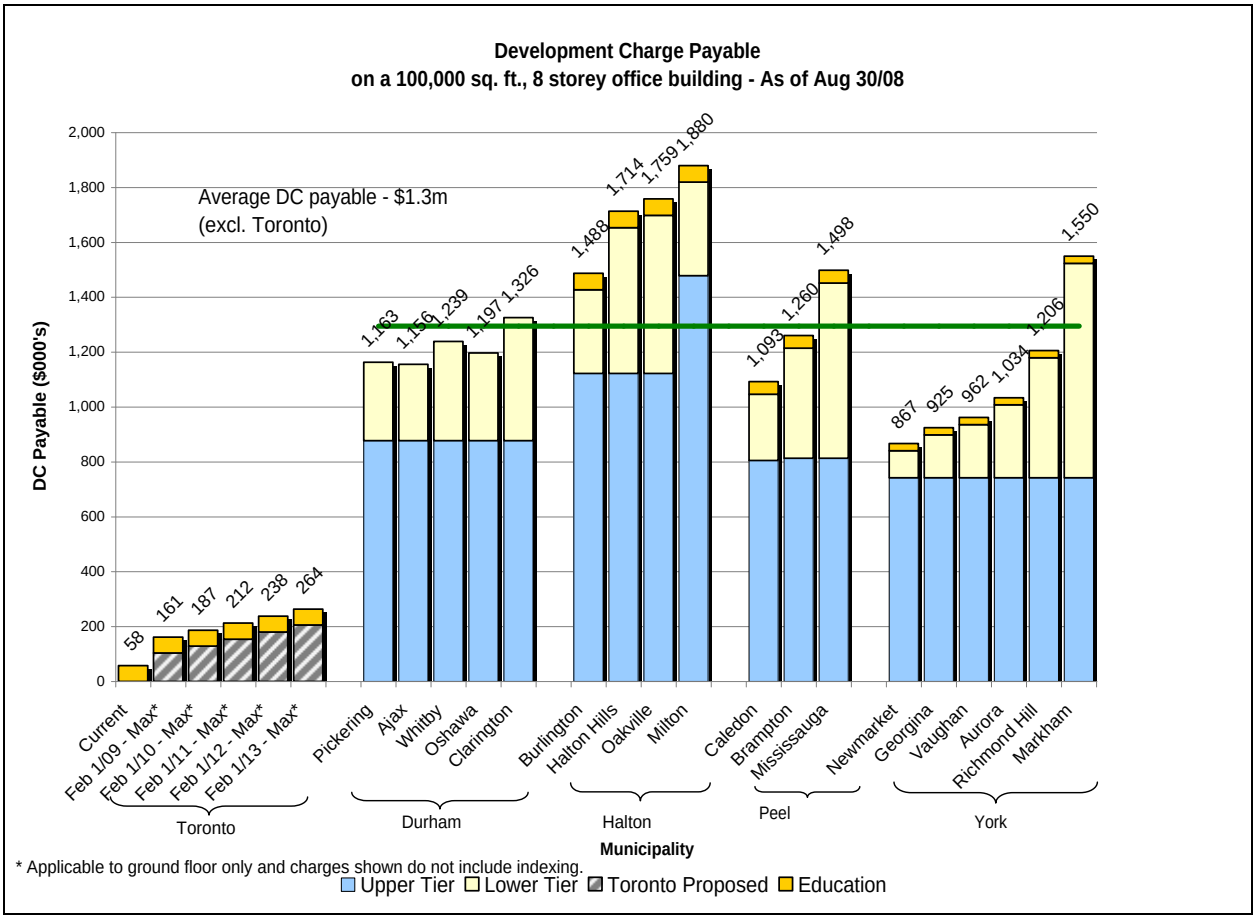
Figure 6: Development Charges Payable – GTA, One-storey, 100,000 sq. ft. Retail Building (As of August 30, 2008)



Note: The proposed 2009 -2013 DC rates for the City exclude annual indexing and assume the maximum potential increase.

As discussed in section 8(d) of this report, office developments qualifying under the Imagination, Manufacturing, Innovation and Technology (IMIT) Financial Incentives Program would be afforded full development charges relief by way of an exemption. Those office developments that do not qualify for financial incentives under the IMIT Financial Incentives Program would be required to pay development charges for the ground floor area only. Figure 7 provides a comparison of the total DC payable on an eight-storey 100,000 sq. ft. office building in the surrounding GTA municipalities with the City's current non-residential charge and the proposed ground floor charge for a building that did not qualify for IMIT Financial Incentives Program.

Figure 7: Development Charges Payable – GTA, Eight-storey, 100,000 sq. ft. Office Building (As of August 30, 2008)



Note: The proposed 2009 -2013 DC rates for the City exclude annual indexing and assume the maximum potential increase.

8. Discussion of Key Changes in Proposed By-law as Compared to Current By-law

The significant changes in the proposed 2008 DC By-law as compared to the current (2004) DC By-law are discussed below. Those aspects of the proposed by-law that remain unchanged are not discussed in this report in any detail; the same rationale put forward in 2004, and in many cases in 1999, remains applicable today, and reference can be made to the staff reports related to the 1999 and 2004 DC By-laws. A link to the 2004 reports is found in the Issue Background section of this report.

a) Discretionary Reduction in Quantum

The 2004 DC By-law (current by-law), as previously indicated, imposed a residential development charge that was voluntarily reduced by City Council by 18% of the maximum calculated charge. This reduction was made by reducing the rate-supported (water, sewer and storm water management) components of the development charge, rather than an across the board reduction to all services. The 2004 non-residential development charge was not reduced from the calculated maximum but was applied to (broadly-defined) retail uses only.

The current economic climate is entirely unsuitable to implement a 130% increase over the existing residential rates. Such a significant increase in the rates could have consequential implications for the development industry and the City. Staff is mindful of the need to promote the City in times of economic downturns and is proposing a freeze of the charges at January 2009 rates until January 31, 2010. From February 1, 2010, a maximum of 25% of the calculated increase is proposed to be implemented annually subject to development in a preceding 12-month period meeting or exceeding a predetermined threshold as discussed below

b) Transition Provisions

Transition provisions are a means to introduce and implement the new charges in a gradual manner while balancing the City's need for the associated revenues and the impact of the increased charges on the development industry. The current (2004) DC By-law included two types of transition provisions:

- Phasing in of the charges: rates under the current (2004) DC By-law were phased in over a 1-year period, with 50% of the increase coming into effect (on January 1, 2005) six months after adoption and the full charge being applicable a further six months later (on July 1, 2005)

- Grandparenting: building permit applications submitted prior to December 31, 2004, for which building permits were issued on or before December 31, 2005, were charged the rates in effect prior to adoption

The proposed (2008) DC By-law includes phase-in provisions and delayed implementation. Phasing-in of the charge mitigates the impact of the increase in the rates by determining whether

increases should be implemented, and the size of the increases, at set periods over the life of the by-law. This is especially relevant in view of the significant increase in the calculated charge as compared to the existing rate. Furthermore, at a time when the real estate market and the economy are expected to soften, as is widely anticipated, the extended phase-in period is a proactive and progressive measure aimed at supporting continued growth and development in the City.

i) Phase-In of DCs

The calculated increase in the DC could adversely affect the rate of new construction in the City if the economy experiences a significant slowdown, which given the current economic turmoil is quite likely. A relatively large and sudden increase in DCs in such circumstances would be detrimental to the interests of both the City and the development industry. A gradual phasing-in of the charges, contingent on the health of the economy, on the other hand, is deemed to be a more fiscally-responsible approach in the prevailing economic environment.

The option of leaving the decision about an appropriate phase-in to a further report a year from now is not cost-effective, since the DC Act requires that a new Background Study be prepared, if Council wishes to reopen the DC by-law during its five-year term. However, this is always an (albeit expensive) option over the next five years.

Several economic indicators were reviewed to determine how best to create a fair formula-based system to govern how much of the potential increase should be phased-in. The number of residential units issued building permits in the City in a preceding 12-month period is recommended, because this indicator is thought to be the best proxy for economic conditions in the housing industry.

Since there are extensive discretionary exemptions for non-residential development, most of the non-residential DCs would be levied for retail and personal services uses. Further, since the demand for these population-serving uses is highly correlated with the number of people living in the city and to simplify the DC by-law, staff is recommending the same trigger for the non-residential phase-in as for the residential phase-in.

Table 7 provides an annual summary of residential units issued building permits since 1990. The annual average number of residential units issued building permits in the period from 1997 to 2007 was 10,943. This period was exceptionally robust and healthy as far as residential construction activity was concerned. Therefore, the annual thresholds to be used as a proxy for a significantly less healthy economy should be set somewhat lower than the annual average for this period. Staff is recommending that a threshold of 7,000 residential units issued building permits constitutes an appropriate level below which the building construction activity would be considered as sufficiently slow to warrant no increase in DCs. Between 7,000 and 9,000 units would call for a modest, graduated increase, and above 9,000 units would signal a healthy sector.

Table 7: Toronto Residential Units
Issued Building Permits

Year	Residential Units
1990	4,416
1991	4,779
1992	7,144
1993	3,556
1994	4,260
1995	6,318
1996	5,158
1997	7,703
1998	7,826
1999	9,742
2000	6,186
2001	8,987
2002	10,846
2003	14,721
2004	12,876
2005	20,889
2006	10,202
2007	10,399
Average (1997-2007)	10,943

The City experienced its worst economic recession in 50 years in the early 1990's. If housing construction in the City were to return to the levels experienced between 1990 and 1996, only 5% of the total allowable increase in DCs would be implemented over the next five years.

The transition provisions included in the proposed (2008) DC By-law provide for:

- delayed implementation – commencing from February 1, 2009;
- January 2009 rates to be frozen for the period February 1, 2009 to January 31, 2010; and
- beginning on February 1, 2010, a graduated approach that implements a maximum of 25% of the calculated increase each successive year based on the number of residential units issued building permits in the City during a preceding 12-month period as follows:

    - less than 7,000 units — 0% of the calculated increase
    - 7,000 – 7,500 units — 5% of the calculated increase
    - 7,501 – 8,000 units — 10% of the calculated increase
    - 8,001 – 8,500 units — 15% of the calculated increase
    - 8,501 – 9,000 units — 20% of the calculated increase
    - more than 9,000 units — 25% of the calculated increase

In view of the current economic climate, the above provisions not only freeze the DC rates for one year, but provide for the implementation of the calculated increase over a four-year period only when and if the increase is deemed sustainable by the level of economic activity during a preceding 12-month period.

The residential building permit activity is determined by reference to Statistics Canada reports for Toronto available for the preceding December to November period (12 months). A two-month time lag is necessary due to the dates when the monthly statistics are released and the need to determine the appropriate increase in advance of the February 1 date. The "calculated increase" referred to in the above graduated steps is the difference between the charge existing on January 31, 2009 and the maximum charge calculated in the Background Study.

Under the best economic conditions, 25% of the calculated increase is implemented every February 1 from 2010 to 2013 (four consecutive annual increases of 25% of the calculated increase). Should poor economic conditions occur, meaning that no increases are implemented, the DC rates will remain at the 2009 levels for the life of the by-law (plus indexing). Where building permits have been issued for between 7,000 and 9,000 residential units in the prior year, annual increases of 5% to 20% of the calculated increases will be implemented. As a result, the increase in rates is likely to be somewhere between zero increase (under the worst scenario) and 100% of the calculated increase (under the best scenario).

The table below presents the maximum potential residential development charge rates (excluding indexing) over the life of the proposed (2008) DC By-law.

Table 8: Maximum Potential Residential Development Charge Rates under Proposed (2008) Development Charge By-law

Development Type	Feb 1/09 - Jan 31/10*	Maximum phased-in rates**			
		Feb 1/10 - Jan 31/11	Feb 1/11 - Jan 31/12	Feb 1/12 - Jan 31/13	Feb 1/13 - Jan 31/14
Residential (per unit)					
Single/Semi-Detached	$11,082	$14,585	$18,089	$21,592	$25,095
Apartments 2-Bedroom or Larger	$7,187	$9,392	$11,597	$13,802	$16,007
Apartments 1-Bedroom or Bachelor	$4,467	$6,080	$7,694	$9,307	$10,920
Other Multiples	$8,819	$11,701	$14,584	$17,466	$20,348
Dwelling Room	$2,864	$3,844	$4,824	$5,803	$6,783
Non-Residential (per sq. m.)	88.98	111.00	133.03	155.05	177.07

* Does not include indexing which is to occur on January 1, 2009, under the existing DC By-Law (No. 547-2004)
** Exclude automatic indexing and assume thresholds are met in the preceding year

ii) Grandparenting Provisions

Grandparenting of applications has been included in previous DC by-laws because project lifecycles of major/large development applications span a number of years, and applicants may not have anticipated sudden and/or significant changes in DCs. It was therefore deemed prudent to provide relief to applications that were in the pipeline subject to their meeting certain criteria.

Grandparenting, as was provided for in the current (2004) DC By-law, affects not only the timing of development, but has related administrative implications as well. In 2004 and 2005, the Toronto Building Division staff was subjected to unusual work loads at two stages – first, as developers rushed to submit building permit applications to meet the eligibility deadline; and then when permits had to be issued prior to end of the grandparenting period in order to qualify for the lower rates.

No specific grandparenting provisions have been included in the proposed (2008) DC By-law for two reasons:

- it is recommended that the rates be frozen at the January 2009 rates for a year; and

- the development industry has had significant notice of a proposed change – the City commenced the by-law review process in September 2007 and communicated this on the development charges webpage, at Toronto Building Division counters and through the consultation process initiated in January 2008.

c) Non-Residential DCs

The use of DCs to fund growth-related capital expenditures is generally premised on the principle that "growth should pay for growth." This should be interpreted in a holistic way – considering both capital costs and operating costs/taxes and the externalities (both positive and negative) caused by development.

Since amalgamation, the City has consistently taken a holistic view of the costs and benefits of development when assessing DC policies. The reasons staff had recommended exemptions for office and industrial development in the 1999 and 2004 DC By-laws are as follows:

1. The rate of development of office/industrial space is expected to be adversely affected by DCs to a much greater degree than for other uses;

2. Staff believes the costs of providing municipal services to an industrial or office building are less than the what the City collects in taxes from such development, meaning that, on a holistic basis, the City does better than break even on these land uses; and

3. There are also positive externalities (that accrue in large part to City residents) resulting from both the jobs created directly, and the contributions to the local economy through the economic multiplier effect.

All new development in the City will generate some new property tax revenue. In the case of many residential developments, it is unlikely that in the long-run this revenue will be sufficient to cover the new development's share of the City's operating budget, as well as the costs associated with the necessary growth-related capital expenditures. It is appropriate therefore, to levy DCs on residential development, so that existing taxpayers do not have to pay an undue share of the servicing costs of growth in this sector.

For non-residential developments, especially for office and industrial development, it is likely that the new property tax revenue associated with such development will be adequate to cover the associated capital and operating costs, so there is not the same rationale for imposing a DC. The additional revenue associated with such developments, whether from DCs (for ground floor of non-industrial uses) plus property taxes or from property taxes alone, will cover the growth-related costs; in other words, growth will pay for growth.

Development charges, like other taxes, also have impacts on the economic decisions made by landowners, developers and other economic participants. Since DCs are levied on a property when it is developed or redeveloped, the potential impact of increasing DCs is that the rate of development could be slower than it would be in the absence of a DC. The magnitude of the potential impact of a DC on the rate of development varies with the quantum of the charge and with the competitive situation faced by developers.

The impact that slowing the rate of development will have on the City's public policy objectives also varies by type of development. The City has a broad range of public policy objectives, many of which are set out in the City's Official Plan. One of the City's most important objectives is the population and employment targets of the Official Plan. The City is making good progress towards achieving the population targets in the plan; however, progress toward the employment targets is less than projected.

Another consideration is whether a development and the jobs associated with it truly represent additions to the City's net floor space and employment totals. Most retail developments are very different in this respect than most manufacturing or large office developments. Most retailers serve the local geographic market. If a retailer builds a new store in Toronto, the most likely impact is that other local retailers' sales will be reduced, which would lead to other local stores closing (or not expanding). The total amount of retail floor space in the City is closely tied to the City's population.

Most major manufacturing plants, on the other hand, serve a much larger market than just the City. Therefore, there is very little chance that a new manufacturing plant (or a head office or a call centre) in the City will displace other similar facilities here.

Development charges (like tax rates) can also have a powerful effect on marketing the City to new business. Many business location decisions are made with incomplete information, especially at the pre-screening stage. It is not uncommon for a jurisdiction to be dropped off a site selector's list because it has a reputation as a high-tax jurisdiction.

Based on the above considerations, staff is recommending only very limited DCs for non-residential development in the City. The discretionary exemptions proposed for non-residential development are discussed in the following section.

d) Discretionary Exemptions for Non-Residential Development

Staff is recommending that industrial development, public hospitals, colleges, universities, temporary structures, places of worship, cemeteries, and accessory parking uses continue to be

exempt from municipal DCs. All other types of non-residential development will only be charged DCs for ground floor space for the reasons noted below.

In addition, it is proposed that development which qualifies for financial incentives under the recently-adopted Imagination, Manufacturing, Innovation and Technology (IMIT) Financial Incentives Program be exempted from ground-floor DCs where the developer enters into an agreement with the City, providing that if they do not receive IMIT Financial Incentives Program approval, or if at any time such approval lapses or otherwise terminates, the full amount of the DC exemption will become due and payable, with interest, and will be added to their tax roll if not paid within 30 days.
The IMIT Financial Incentives Program is targeted to specific employment sectors, namely manufacturing, information and communications technology, environmental industries, biomedical operations, creative industries, tourism attractions, and transformative projects. The staff report pertaining to the IMIT Financial Incentives Program that was considered at the May 8, 2008 meeting of Planning and Growth Management Committee (Item PG15.2) can be found online at the following address:
http://www.toronto.ca/legdocs/mmis/2008/pg/bgrd/backgroundfile-12573.pdf . The subsequent supplementary staff report forwarded to the May 26-27, 2008 meeting of City Council can be found at: http://www.toronto.ca/legdocs/mmis/2008/cc/bgrd/backgroundfile-13186.pdf . The adopted implementing By-laws 516-2008, 517-2008, and 518-2008 can be found at: http://www.toronto.ca/legdocs/bylaws/2008/index.pdf .

The recommendation to impose DCs on all non-industrial, non-residential space in the City, albeit limited to the ground floor only, is a departure from the current (2004) DC By-law, which exempts office, hotel and industrial development and levies DCs on all retail and personal services space (such as restaurants). This recommendation was made for several reasons as outlined below.

Most retail and personal services uses locate on the ground floor of multi-storey buildings or in single-storey buildings, and thus most retail and personal services space, will continue to be subject to development charges. The existing By-law is difficult to administer, however, because it is not always possible to determine at the building permit stage whether ground floor non-residential space is going to be used for retail uses or for other non-residential, non-industrial uses. The difficulty in implementing this aspect of the existing By-law creates uncertainty for developers and results in higher costs for the City and developers when arguments ensue. In some cases the disputes have resulted in complaints filed by applicants pursuant to the DC Act, requiring hearings before Executive Committee and the Ontario Municipal Board.

The kinds of storefront office uses that are typically found on the ground floor of “main street” buildings also have a lot in common with the characteristics of geographically-based retail and other personal services space. In addition, ground floor space is also very flexible; over the years, the uses can vary between retail and other commercial or institutional uses, so there is a rationale for applying DCs to such ground floor space.

At the same time, existing policy reasons for levying DCs on retail and personal services development, while exempting more “footloose” (e.g., office and industrial) development,

remain an important consideration. The term "footloose" means that the proposed development can easily locate in a variety of places, possibly outside the City, and is not geographically bound by a need to serve the local community.

The reasons for charging retail and personal services space were outlined in the staff reports produced for the current (2004) DC By-law, to which online links have been provided in the Issue Background section of this report, above. In brief, it is expected that the rate of development of geographically-based retail and personal services space is likely to be less sensitive to DCs than that of large-scale office and industrial development. Large industrial developments as well as most head offices and call centres serve a broad market. In many cases their markets reach well beyond the City's borders. For example, a call centre serving all of Ontario could be located anywhere in Ontario, or even outside this region altogether. By comparison, a coffee shop or a retail dry-cleaning establishment must locate where its customers are located, and thus is considered to be geographically-based.

Imposing DCs on retail development could mean slightly higher prices for retail goods sold in the City, but of such a minor extent as to be negligible. It is expected that the rate of development of retail space will not be significantly affected by DCs. Large office and industrial space users, however, cannot as readily pass on DCs to their customers through higher prices. Therefore, the expected impact on the rate of development is expected to be larger than for retail. Industrial development is seen to be especially sensitive to development cost pressures.

The decision to levy non-residential DCs only on ground floor space is expected to have a modest impact on the intensity of retail development in the City. It is possible that some large-format retailers will be encouraged to develop their retail space in multi-storey formats. While this represents a small potential loss of DC revenue, the approach also serves as a modest and appropriate incentive for intensification. The potential loss of DC revenue will likely be partially offset by DC revenue from a modest amount of other ground floor non-residential development that will now be subject to DCs. Because not all retail and service use development occurs on the ground floor, this approach will intentionally capture less than 100% of such development, whereas the current (2004) By-law is intended to capture 100% of such retail and service use development (even though the administrative difficulties discussed previously can result in less than 100% capture).

The modest impact on non-residential uses other than industrial and retail uses of the recommended approach of applying DCs to all non-residential, non-industrial development at the ground floor level only, is expected to be largely offset by the recommended DC exemption across the City for employment uses which qualify for financial incentives under the IMIT Financial Incentives Program.

e) Incentive Discounts: 20% Refund for New Development Meeting Tier 2 of the Toronto Green Standard

Addressing climate change has been established as a priority for the City through the adoption of the Climate Change and Clean Air and Sustainable Energy Action Plan, which sets targets for greenhouse gas reduction. The Action Plan recognizes the significant role that buildings play in

achieving the greenhouse gas targets and reducing energy consumption, which can lead to improved air quality. The direction outlined in the Action Plan requires better development practices. The Toronto Green Standard (TGS) is a set of environmental performance measures for new development that address environmental issues specific to Toronto. It was approved by Council in July 2006 to be applied on a voluntary basis to private sector development.

The TGS has been successful in beginning to change behaviour and expectations for new development in Toronto. However, encouraging even higher levels of environmental performance may be possible through an incentive-based program. A report before Planning and Growth Management Committee on November 13, 2008 proposes a new two-tier approach to the TGS. Tier 1 requirements, which are centred on an energy efficiency rating that is 25% better than the Model National Energy Efficiency Code for Buildings (MNECB), will be promoted and secured mainly through rezoning applications. Tier 2 requirements, which are centred on an energy efficiency rating 40% better than the MNEBC, were designed to further raise the bar on environmental performance of development. For low-rise structures, including singles and townhomes, the energy performance requirement is measured through the EnerGuide rating. Ratings of 80 and 85 must be achieved for Tiers 1 and 2, respectively.

A refund of 20% of the DCs, across all service categories comprising the total DCs for residential or non-residential uses, is proposed for any building that can achieve Tier 2 TGS requirements. The Tier 2 requirements pertain primarily to energy efficiency, for which there is not a direct correlation in the capital costs of services addressed through DCs. The TGS also provides benefits through avoided infrastructure costs in the service categories of water, sanitary sewer and storm water management, with Tier 2 requirements providing greater benefits than those of Tier 1.

The Tier 2 energy requirements are equivalent to measures found in the Leadership in Energy and Environmental Design (LEED) credit system, and the Tier 2 requirements include even higher standards than the LEED system for water conservation and stormwater management. To help provide some perspective with respect to the recommended 20% discount, the capital costs calculated in the Background Study for combined water, sanitary sewer and stormwater management services comprise 18% of the total residential DC and 31% of the total non-residential DC. These are the DC-funded services which most closely align with the Tier 2 TGS requirements.

A Cost Benefit Study of the TGS requirements was completed for the City in 2008. For an apartment building with an energy efficiency rating 25% better than the MNECB, the capital cost premium was estimated to be approximately 2%. For a retail commercial development of one-storey with 7,435 m^2 of retail and 1,859 m^2 of restaurant, the capital cost premium of complying with the Tier 1 energy efficiency rating of 25% better than the MNECB is also approximately 2%. Unfortunately, the study did not examine the capital cost premium associated with meeting the higher Tier 2 environmental performance of 40% above MNECB. However, a review of a number of cost benefit studies suggests that the capital cost premium could be as high as 7%.

The development charge refund would be awarded post-construction, upon the City's approval of a report by a qualified third-party consultant, produced at the applicant's expense, validating

the achievement of the Tier 2 TGS. This 20% discount is included in the proposed (2008) DC By-law.

f) Redevelopment DC Reductions

For demolition or conversion of existing residential units, the current (2004) DC By-law allows a reduction in DCs payable, at the DC rates applicable to the demolished units as if being currently constructed, only where the new development is for residential uses. The proposed (2008) DC By-law allows the same reduction, but for any proposed new development. The residential DC was calculated using the net increase in population as the denominator, therefore a DC reduction for demolition is considered to be a fair approach.

For demolition or conversion of existing non-residential space, the current (2004) DC By-law allows a DC reduction for redevelopment to non-residential uses only. The reduction is implemented by charging for only the net increase in non-residential floor space. This approach penalizes the City in that demolition of space that would not be subject to DCs (e.g., industrial space) for redevelopment to space that would be subject to DCs (e.g., retail space) results in a reduction of DCs. Not only is this financially punitive for the City, but it can also act as an incentive to convert non-retail employment uses to retail uses, which usually is not in accordance with the City's planning and economic development objectives.

Under the proposed (2008) DC By-law, a DC reduction for such demolition or conversion is provided only where the type of space to be demolished or converted would be subject to DCs under the by-law. Therefore, only existing non-industrial, non-residential ground floor space to be demolished or converted would qualify for the reduction.

Demolition of non-residential space for residential redevelopment is not provided a DC reduction in the proposed (2008) DC By-law or in the current (2004) DC By-law. For non-residential development, the DC calculation was based on the servicing needs of the City-wide net population/employment growth, and other factors. In addition, staff is of the view that no financial incentive should be provided that might encourage conversion of employment lands to residential uses. The redevelopment reduction policy is discussed in greater detail on pages 75 to 79 of the Background Study.

g) Indexing

The current (2004) DC By-law provided for the DCs to be first indexed on January 1, 2006, almost 18 months after adoption, with annual indexing thereafter on January 1 of each successive year up to and including January 1, 2009. The proposed (2008) DC By-law provides for annual indexing of rates to first occur on February 1, 2010 and on February 1 of each successive year.

9. Other Issues

a) Area-Specific DCs

In the 1999 and 2004 DC By-laws, the City has chosen to implement uniform, city-wide DCs. From time to time, there have been arguments put forward favouring an area-specific DC approach, and inquiries regarding the advantages and disadvantages of the two approaches.

In a report dated July 12, 1999 from the Chief Financial Officer and Treasurer to Policy and Finance Committee, prior to the adoption of the 1999 DC By-law, the reasons for not recommending area-specific DCs were set out and are summarized below:

(i) many services (e.g., roads, treatment plants, city-wide parks) provide services on a municipal-wide basis and are therefore best funded on that basis. Other services (e.g., recreation facilities, fire halls) have service areas that are not readily definable as they serve wide and variable areas;

(ii) area-specific charges are more contentious, since developers on the higher charge side of the boundaries may argue about boundary location and/or the amount of the charge. The area-specific charges are thus more likely to generate appeals and are more difficult to defend and administer;

(iii) adoption of some area-specific charges can lead to increased pressure for further such charges, potentially resulting in a complicated patchwork of area-specific charges;

(iv) with area-specific charges, changes in the timing, cost or nature of servicing plans would potentially create the need to revise the area-specific charges and/or to make refunds for monies already collected;

(v) the use of area-specific charge collections is restricted to the specific purpose for which the collections were made, reducing the City's flexibility to fund new works from a consolidated, city-wide reserve fund early in the servicing period;

(vi) with area-specific charges, overlapping coverage areas for various services would occur, making the charge calculations much more complicated and the area charges more difficult to understand and explain;

(vii) the more complex studies, planning and calculations required to support area-specific charges would be more time consuming and the resulting charges would be more contentious; and

(viii) the charges, in some areas, may be so high as to discourage development.

Section 4 of the Executive Summary of the Background Study cites the following reasons in support of a uniform, city-wide DC approach:

- most municipalities in Ontario have taken the uniform, city-wide DC approach;

- when area-specific DCs are imposed, it is generally to underpin master servicing and front-end financing arrangements, usually for "hard" services applicable to defined "greenfield" development;

- area-specific DCs in a mature urban area are uncommon because:
    - growth in central area triggers need for significant services throughout the City;
    - calculation and updating of area-specific charges is difficult and contentious regarding boundaries, cost shares, and updates following changes in development approvals or servicing needs; and
    - the City requires a full DC contribution from all development as part of funding the substantial capital works program needed to permit growth without eroding service levels.

In addition, there are areas such as Avenues, Centres and Employment Districts where the Official Plan encourages new growth, and a lower area-specific DC for the downtown core, for example, could result in higher area-specific DCs for these other growth areas. This could have adverse impacts on the growth policies of the Official Plan.

Staff supports the continuation of uniform, city-wide development charges.

b) DC Relief for Affordable Ownership Housing

The Toronto Real Estate Board (TREB) and the other development industry stakeholders have provided feedback to the effect that affordable ownership housing should also be exempted from Development Charges (see comments in Appendix 2A). The Affordable Housing Office has been consulted in the preparation of this response.

The City, in November 2007, released Housing Opportunities Toronto: An Affordable Housing Framework 2008-2018 and has held public consultations on the development of a long-term housing plan. It is anticipated that Council will consider the proposed housing plan in 2009.

The Housing Opportunities Toronto Framework proposes key investments and actions in six specific themed areas. Affordable ownership housing is identified as one of the priority areas for attention. In light of the current policy development process on affordable housing, it would be premature to adopt an ad hoc affordable ownership housing Development Charge By-law exemption. One significant issue is the ensuring of on-going affordability beyond the initial sale of the units.

Development of the City's long-term affordable housing plan will consider matters with respect to affordable ownership such as the priority for future action, criteria for households to be supported, eligible sponsors, and opportunities and ability to secure ongoing affordability.

At the time City Council considers the report on a long-term housing plan and possible support for affordable ownership housing, the issue of related DC exemptions, if Council desires, could be addressed through an amendment to the DC By-law or through an amendment to the Municipal Housing Facility By-law, which currently applies to both private and non-profit affordable rental housing. It should be noted that the DC Act requires a revised Background Study for any amendments to the DC By-law, but a full Background Study should not be necessary for this purpose.

In light of the above, it is premature as a part of the current DC By-law review to consider a DC exemption for affordable ownership housing.

c) DC Relief for Development Receiving RRAP Funding

TREB and other development industry stakeholders have asked why the exemption in the existing Development Charge By-law (Ch. 415-6, section B.(1)(f)) for projects approved under the Residential Rehabilitation Assistance Program (RRAP) is implemented only for affordable rental housing when RRAP also applies to affordable ownership housing (see comments in Appendix 2A). City staff has also independently identified the need for a minor change in the by-law wording of this exemption, as discussed below.

RRAP is a Canada Mortgage and Housing Corporation (CMHC) program for low- and modest-income households that provides funding for:

1) repairs to affordable housing:
2) housing modifications for disabled residents;
3) creation of secondary affordable rental suites; and
4) conversion of non-residential buildings to new affordable rental housing.

There are requirements for maximum market rents where applicable and maximum household income thresholds, and for some aspects of the program, maximum property values. There are also other eligibility requirements. The program is funded by CMHC, with the City, through the Affordable Housing Office, providing local delivery of the program and making recommendations to CMHC with respect to project funding within pre-established allocations.

Those aspects of RRAP that involve new units, i.e., new growth, include the creation of secondary affordable rental suites in an existing single family home (component 3 above), and the conversion of non-residential buildings to new affordable rental housing (component 4 above). Neither component involves ownership units. The creation of second suites in single family homes is already exempted from DCs by statutory exemption in the DC Act and reflected in Ch. 415-6, section A.(1)(b) of the current (2004) DC By-law. The RRAP requirements stipulate that such additional units must be rented at or below maximum rents established by CMHC and thus they are not ownership units. The conversion of non-residential buildings to affordable rental housing (RRAP component 4 above), by definition and program requirements, does not include creation of ownership units.

Repairs and modifications (for disabled access) to existing ownership homes (RRAP components 1 and 2 above) are not creating new units and thus would not trigger development charges in any event, and these are the only components of RRAP in which ownership housing could be eligible for funding.

In summary, there are four components of RRAP. Only the repair component and the modification for disabled access component would potentially involve affordable ownership, but would not be subject to development charges in any event because no new units are being created. There is no ability on the part of the City to extend the existing (2004) DC By-law exemption for new units funded under RRAP to ownership units, because no new ownership units can be created under RRAP.

The wording of the current (2004) DC By-law exemption (Ch. 415-6, section B.(1)(f)) for projects with RRAP funding refers to "Dwelling units for which the City has granted conditional approval under the Residential Rehabilitation Assistance Program." Technically, it is CMHC and not the City which grants conditional approval, upon the City's recommendation. In the proposed (2008) DC By-law, the word "City" has been changed to "Canada Mortgage and Housing Corporation", as a technical revision.

10. Conclusions

The Background Study has been carried out in accordance with the requirements of the DC Act, and is being made available for public review and being forwarded to members of Council. Consultation with stakeholders has been undertaken during the completion of the Background Study. The proposed (2008) DC By-law is also being made available for public review, and is forwarded to Executive Committee for the holding of a statutory public meeting. The proposed (2008) DC By-law contains transition provisions involving possible variable increases that depend upon the number of residential units issued building permits in the prior year, and the maximum rates possible in year 5 of the By-law reflect the full calculated increases. The Background Study and the proposed (2008) DC By-law continue the City's practice of calculating and imposing DCs on a city-wide, as opposed to an area-specific, basis, and that practice, in the opinion of staff, is fully justified.

The full 2008 calculated residential and non-residential DCs represent an increase over the current level of charges of about 130% and 100%, respectively. The increases result from inclusion of new services, an expanded Waterfront service program, updated capital plans, reduced deductions, increased service level caps, legislative changes allowing for additional cost recovery for the Toronto-York subway extension, cost inflation, and full cost recovery for all services to the extent permitted under the DC Act. In addition, the current (2004) DC By-law contained a discretionary reduction of 18% of the calculated maximum residential DCs. Under the proposed (2008) DC By-law, the DC rates would be frozen for the first year, and the calculated increase in the charges would be phased in over the remaining four years. It is proposed that the phased-in rate and size of increases in the DCs be determined by the relative health of the economy, using residential building permit activity as a proxy.

The calculated residential DCs remain below the average residential DC rates currently imposed in the GTA. Toronto continues to be the only GTA municipality which fully exempts industrial development from municipal DCs. Full DC exemptions are proposed for employment uses that qualify for financial incentives under the recently-approved IMIT Financial Incentives Program. For other non-exempt non-residential development, the proposed (2008) DC By-law includes a charge for the ground floor area only. For any buildings achieving Tier 2 Toronto Green Development Standards, a 20% refund of DCs paid is proposed.

Changes are also proposed, in comparison to the current (2004) DC By-law, to the DC reductions for redevelopment and to the phasing-in provisions of the By-law.

This report recommends that the City of Toronto 2008 Development Charge Background Study be approved, the proposed (2008) Development Charge By-law be adopted, and following the statutory meeting of Executive Committee to consider the proposed By-law, that staff report to the December meeting of City Council on any recommended changes to the By-law resulting from public comments and any Committee direction.

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_____
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City Manager

_____
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Acting Deputy City Manager &
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ATTACHMENTS

Appendix 1: Proposed Development Charge By-law
Appendix 2: Discussion of Issues Raised in Public Consultation Program
Appendix 3: 2008-2017 Capital Program
Appendix 4: Response to Councillor Moscoe's Request
Appendix 5: City of Toronto 2008 Development Charge Background Study

Appendix 1

City of Toronto 2008 Proposed Development Charge By-law
(rev. Oct. 22/08)

Authority: Executive Committee Item ,
adopted as amended, by City of Toronto Council on _____, 2008
Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. -2008

To amend Municipal Code Chapter 415, Development of Land, by re-enacting Article I, Development Charges.

WHEREAS the City of Toronto has and will continue to experience growth through development; and

WHEREAS development requires the provision of physical infrastructure and other services by the City; and

WHEREAS the *Development Charges Act, 1997*, S.O. 1997, c.27 (the "Act"), authorizes Council to pass by-laws for the imposition of development charges against land; and

WHEREAS Council desires to ensure that the capital cost of meeting development related demands for, or the burden on, City services does not place an undue financial burden on the City or its existing taxpayers while, at the same time, ensuring new development contributes no more than the net capital cost attributable to providing the historic level of services and meeting the requirements of section 5(1) of the Act; and

WHEREAS the City has undertaken a study of, among other matters, the matters raised in section 10 of the Act and section 8 of O. Reg 82/98, services, service levels, expected development, development-related facilities and the costs thereof; and

WHEREAS the Executive Committee at its meeting dated November 10, 2008, had before it a report entitled "City of Toronto 2008 Development Charge Background Study" prepared by Watson & Associates Economists Ltd. dated October 23, 2008 (the "Study"); and

WHEREAS the Study was made available to the public at least two weeks prior to the public meeting and Council gave more than twenty days notice to the public and a meeting pursuant to section 12 of the Act was held on November 10, 2008, before the Executive Committee, prior to and at which the Study and the proposed development charge by-law were made available to the public and Committee heard comments and representations from all persons who applied to be heard; and

WHEREAS Council at its meeting held on December 1 and 2, 2008, further considered the Study, as amended by a staff report dated , 2008, which responded to the comments and representations from the persons heard at the public meeting and from other consultations with various stakeholders; and

WHEREAS Council in adopting Item of the Executive Committee at its meeting held on December 1 and 2, 2008, has considered this matter and has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development will be met by approving a capital forecast including the works underlying the development charge calculation;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 415, Development of Land, of The City of Toronto Municipal Code is amended by deleting Article I, Development Charges, and substituting the following:

ARTICLE I
Development Charges

§ 415-1. Definitions.

As used in this article the following terms shall have the meanings indicated:

ACCESSORY USE — The building or structure or part thereof is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure.

ACT — The *Development Charges Act, 1997,* S.O. 1997, c.27.

APARTMENT UNIT — Any residential dwelling unit within a residential building, or the residential portion of a mixed use building, where such unit is accessed through a common entrance from the street level and an interior enclosed corridor, and the building contains three or more units with such access.

BACHELOR UNIT — A residential dwelling unit consisting of a self-contained living area in which culinary and sanitary facilities are provided for the exclusive use of the occupant but not including a separate bedroom.

BEDROOM — Any room used or designed or intended for use as sleeping quarters but does not include a living room, dining room, kitchen or an area to be used as a den, study or other similar area.

BOARD OF EDUCATION — The same meaning as that specified in the *Education Act*.

BUILDING CODE ACT — The *Building Code Act*, 1992, S.O. 1992, c.23.

BUILDING PERMIT — A permit issued pursuant to the Building Code Act that permits the construction, alteration or change in use of any building or structure above grade.

CAPITAL COST — The same meaning it has in the Act.

CHIEF BUILDING OFFICIAL — A chief building official appointed or constituted under section 3 of the Building Code Act.

BUILDING PERMIT APPLICATION — An application submitted to and accepted by the Chief Building Official for an above grade building permit which complies with the applicable zoning by-law and with all technical requirements of the Building Code Act and includes the payment of all applicable fees.

DEVELOPMENT — Any activity or proposed activity in respect of land that requires one or more of the actions referred to in § 415-5A and includes a trailer or mobile home park, the redevelopment of land or the redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure.

DEVELOPMENT CHARGE — A charge imposed under this article.

DWELLING ROOM — A room used or designed for human habitation and may include either but not both culinary or sanitary conveniences, and:

A. Includes but is not limited to rooms in the following building types as defined in this article: a group home, nursing home, a retirement home or lodge and a special care or special need dwelling.

B. Does not include:

(1) A room in a hotel, motel, tourist home or guest home;

(2) A bathroom or kitchen;

(3) A room in a dwelling unit; or

(4) A windowless storage room that has a floor area of less than 10 square metres.

DWELLING UNIT — Living accommodation comprising a single housekeeping unit within any part of a building or structure used, designed or intended to be used by one person or persons living together, in which both culinary and sanitary facilities are provided for the exclusive use of such person or persons, but does not include a room or suite of rooms in a hotel.

FORMER MUNICIPALITIES — The former Municipality of Metropolitan Toronto, the former Cities of Etobicoke, North York, Scarborough, Toronto and York and the former Borough of East York as they existed on December 31, 1997.

GRADE — Means the average level of proposed or finished grade adjoining a building at all exterior walls.

GROUP HOME — A residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a twenty-four hour a day basis on site by agency staff on a shift rotation basis, funded wholly or in part by any government and licensed, approved or supervised by the Province of Ontario under a general or special Act.

GROUND FLOOR – For the purposes of § 415-7, ground floor shall be the first floor of a building or structure above grade.

HOTEL — A commercial establishment offering temporary accommodations on a daily, weekly or monthly rate to the public, and where all rooms, suites, apartments or similar forms of accommodation are owned by a single owner or entity.

INDUSTRIAL USES — Lands, buildings or structures used or designed or intended for use for or in connection with manufacturing, producing or processing of goods, warehousing or bulk storage of goods, distribution centre, truck terminal, research and development in connection with manufacturing, producing or processing of goods, and:

A. Includes office uses and the sale of commodities to the general public where such uses are accessory to and subordinate to an industrial use.

B. Does not include:

(1) a building used exclusively for office or administrative purposes unless it is attached to an industrial building or structure as defined above; or

(2) self storage facilities available to the general public.

LOCAL BOARD — The same meaning as defined in the Act.

MOBILE HOME — Any dwelling that is designated to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer.

MULTIPLE DWELLING UNIT — All dwellings units other than single detached, semi-detached and apartment units, and includes row dwellings.

NON-PROFIT HOUSING — Housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by:

A. A non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or

B. A non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*.

NON-RESIDENTIAL GROSS FLOOR AREA — In the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

A. A room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;

B. Loading facilities above or below grade; and

C. A part of the building or structure above or below grade that is used for the parking of motor vehicles which is associated with but accessory to the principal use.

NON-RESIDENTIAL USES — Land, buildings or structures or portions thereof used, or designed or intended for any use other than for a residential use, as defined in this article.

NURSING HOME — A residential building or the residential portion of a mixed-use building licensed as a nursing home under the *Housing Homes Act*.

OWNER — The owner of land or a person who has made application for an approval of the development of land against which a development charge is imposed.

PARTY WALL — A wall jointly owned and jointly used by two parties under an easement agreement or by right in law and erected at or upon a line separating two parcels of land each of which is, or is capable of being, a separate real estate entity.

PLACE OF WORSHIP — That part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*.

RESIDENTIAL GROSS FLOOR AREA — In the case of a dwelling unit, the total area of all floors measured between the outside surfaces of exterior walls or between the

outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building, but does not include any part of the unit used for the parking of motor vehicles or common service areas.

RESIDENTIAL USE — Land or building or structures of any kind whatsoever or any portion thereof, used, designed or intended to be used as living accommodations, including accessory uses naturally and normally incidental in purpose and exclusively devoted to the residential use, for one or more individuals and includes a unit designed for combined live/work uses, but does not include a hotel or similar building or structure providing temporary accommodation.

RETIREMENT HOME OR LODGE — A residential building or the residential portion of a mixed-use building which provides room and board accommodation for senior citizens and is not presently governed under any Provincial Act.

ROOMING HOUSE — A building originally constructed as a single detached house or semi-detached house that:

A. Contains dwelling rooms designated or intended for use as a living accommodation by more than three persons; and

B. May also contain one or more dwelling units.

ROW DWELLING — One of a series of three or more attached residential buildings with:

A. Each building comprising one dwelling unit;

B. Each building divided vertically from another by a party wall; and

C. Each building located on a lot.

SEMI-DETACHED DWELLING — A residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts, attached to another dwelling unit where the dwelling units are not connected by an interior corridor.

SERVICES (OR SERVICE) — Those services designated in § 415-2C.

SINGLE DETACHED DWELLING and SINGLE DETACHED — A residential building consisting of one dwelling unit and not attached to another structure used for residential uses or purposes and includes mobile homes.

SPECIAL CARE OR SPECIAL NEED DWELLING. — A building containing more than four dwelling units or dwelling rooms that is designed to accommodate individuals with specific needs, including independent permanent living arrangements, where support

services such as meal preparation, grocery shopping, laundry, housekeeping nursing, respite care and attendant services are provided at various levels, and:

A. The units have a common entrance from street level;

B. The occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings; and

C. The units or rooms may or may not have exclusive sanitary or culinary facilities or both.

§ 415-2. Designation of services.

A. It is declared by the Council that all development of land within the City will increase the need for services.

B. Once this article is in force, the development charge applicable to a development as determined under this article shall apply without regard to the services required or used by any individual development.

C. Development charges shall be imposed for the following categories of services to pay for the increased capital costs required because of increased needs for services arising from development:

(1) Spadina Subway Extension

(2) Transit (Balance)

(3) Roads and Related

(4) Water

(5) Sanitary Sewer

(6) Storm Water Management

(7) Parks and Recreation

(8) Library

(9) Subsidized Housing

(10) Police

(11) Fire

(12) EMS

(13) Development-related Studies

(14) Civic Improvements

(15) Child Care

(16) Health

(17) Pedestrian Infrastructure

§ 415-3. Rules; applicability.

A. For the purpose of complying with section 6 of the Act, rules have been developed as follows:

(1) The rules for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be in accordance with §§ 415-4 through 415-14.2.

(2) The rules for determining the exemptions shall be in accordance with § 415-6.

(3) The rules for determining the indexing of development charges shall be in accordance with § 415-11.

(4) The rules for determining the phasing in of development charges shall be in accordance with § 415-12.

(5) The rules respecting the redevelopment of land shall be in accordance with § 415-7.

(6) The area to which this article applies shall be the area described in § 415-4.

B. Development charges shall be payable in the amounts set out and phased in accordance with § 415-12 and Schedules A and B at the end of this chapter, where the lands are located in the area described in § 415-4A and the development of the lands requires any of the approvals set out in § 415-5A.

§ 415-4. Areas to which this article applies.

A. This article applies to all lands in the geographic area of the City, and applies whether or not the land or use is exempt from taxation under section 3 of the *Assessment Act*.

B. This article shall not apply to lands that are owned by and used for the purposes of:

(1) The City or a local board thereof as defined in the Act.

(2) A board of education.

§ 415-5. Approvals for development.

A. Development charges shall be imposed on all lands, buildings or structures that are developed if the development requires:

(1) The passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*.

(2) Approval of a minor variance under section 45 of the *Planning Act*.

(3) A conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies.

(4) The approval of a plan of subdivision under section 51 of the *Planning Act*.

(5) A consent under section 53 of the *Planning Act*.

(6) The issuing of any permit under the *Building Code Act* in relation to a building or structure.

B. No more than one development charge for each service designated in § 415-2C shall be imposed upon any lands, buildings or structures to which this article applies even though two or more of the actions described in § 415-5A are required before the lands, buildings or structures can be developed.

§ 415-6. Exemptions.

A. Exemptions for intensification of housing.

(1) This article does not apply with respect to:

(a) An enlargement to an existing dwelling unit.

(b) The creation of one or two additional dwelling units in an existing single detached dwelling.

(c) The creation of one additional dwelling unit in any existing semi-detached dwelling or other existing residential building.

(2) Despite Subsection A(1), development charges shall be imposed if the total gross floor area of the additional one or two dwelling units exceeds the gross floor area of the existing single detached dwelling.

(3) Despite Subsection A(1), development charges shall be imposed if the additional dwelling unit has a gross floor area greater than:

(a) In the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit.

(b) In the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the existing residential building.

(4) Definition of gross floor area.

(a) For the purposes of Subsection A(2) and (3), "gross floor area" shall be as defined in Ontario Regulation 82/98.

(b) For ease of reference, the definition of "gross floor area" as currently contained in the regulation is as follows:

"gross floor area" means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

B. Other exemptions.

(1) Despite the provisions of this article, development charges shall not be imposed with respect to:

(a) Development creating or adding an accessory use or accessory structure not exceeding 10 square metres of residential or non-residential gross floor area.

(b) Lands, buildings or structures that are the subject of a written agreement entered into by the City or a Former Municipality which agreement in words expressly exempts the lands, buildings or structures from development charges.

(c) Non-profit housing.

(d) Dwelling units for which the Canada Mortgage and Housing Corporation has granted conditional approval under the Residential Rehabilitation Assistance Program.

(e) Dwelling Rooms within a Rooming House.

(f) A temporary building or structure constructed, erected or placed on land for a continuous period not exceeding eight months, if:

[1] The status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this article; and

[2] Upon application being made for the issuance of a permit under the *Building Code Act*, in relation to a temporary building or structure on land to which a development charge applies, the City may require that the owner submit security satisfactory to the City, to be realized upon in the event that the building or structure is present on the subject lands for a continuous period exceeding eight months, and development charges thereby become payable.

§ 415-7. Amount of charge.

A. Residential charge.

(1) Development charges shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit or a dwelling room accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential dwelling unit or dwelling room, and calculated with respect to each of the services according to the percentage of charge by service set out in Schedule A, and the amount of such development charge shall be determined as follows:

(a) from February 1, 2009 to January 31, 2010, the amount of the development charge shall be as shown in Column 2 on Schedule A at the end of this chapter as adjusted on January 1, 2009, pursuant to § 415-11 of By-law No. 547-2004;

(b) beginning February 1, 2010, and continuing on the first day of February in each of 2011, 2012 and 2013, the amount of the development charge then in effect will be increased according to the number of residential units for which building permits have been issued by the City of Toronto in the preceding 12 month period, as follows:

[1] where permits for less than 7,000 residential dwelling units have been issued, there shall be no increase to the development charge then in effect;

[2] where permits for 7,000 or more and up to 7,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 5% of the amount shown on Column 4;

[3] where permits for 7,501 or more and up to 8,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 10% of the amount shown on Column 4;

[4] where permits for 8,001 or more and up to 8,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 15% of the amount shown on Column 4;

[5] where permits for 8,501 or more and up to 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 20% of the amount shown on Column 4; and

[6] where permits for more than 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 25% of the amount shown on Column 4.

(2) For the purposes of A(1) the number of residential dwelling units for which building permits have been issued shall be determined by reference to Statistics Canada data for the City of Toronto for the 12 month period ending in November of the immediately preceding year.

(3) If a multiple dwelling unit is less than 55 square metres in residential gross floor area, the unit shall be considered to be an apartment unit for the purpose of determining the applicable development charge set out on Schedule A.

(4) Where development charges have been paid with respect to lands, buildings or structures which the City has certified as having met all of the Tier 2 requirements of the Toronto Green Standard Program, or successor program, a refund will be given in an amount equal to 20% of the development charges so paid.

B. Non-residential charge.

(1) Development charges shall be imposed upon all non-residential uses of lands, buildings or structures, and in the case of a mixed-use building or structure upon all non-residential uses of the mixed-use building or structure, according to the amount of non-residential gross floor area which is located on the ground floor of such building or structure, and calculated with respect to each of the services according to the percentage of charge by services set out in Schedule B, and the amount of such development charge shall be determined as follows:

(a) from February 1, 2009 to January 31, 2010, the amount of the development charge shall be as shown in Column 2 on Schedule B at the

end of this chapter, as adjusted on January 1, 2009, pursuant to § 415-11 of By-law No. 547-2004;

(b) beginning February 1, 2010, and continuing on the first day of February in each of 2011, 2012 and 2013, the amount of the development charge then in effect will be increased according to the number of residential units for which building permits have been issued by the City of Toronto in the preceding 12 month period, as follows:

[1] where permits for less than 7,000 residential dwelling units have been issued, there shall be no increase to the development charge then in effect;

[2] where permits for 7,000 or more and up to 7,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 5% of the amount shown on Column 4;

[3] where permits for 7,501 or more and up to 8,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 10% of the amount shown on Column 4;

[4] where permits for 8,001 or more and up to 8,500 residential dwelling units have been issued, the development charge then in effect shall be increased by 15% of the amount shown on Column 4;

[5] where permits for 8,501 or more and up to 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 20% of the amount shown on Column 4; and

[6] where permits for more than 9,000 residential dwelling units have been issued, the development charge then in effect shall be increased by 25% of the amount shown on Column 4.

(2) For the purposes of B(1), the number of residential dwelling units for which building permits have been issued shall be determined by reference to Statistics Canada data for the City of Toronto for the 12 month period ending in November of the immediately preceding year.

(3) Despite B(1), development charges shall not be imposed with respect to the following non-residential uses:

(a) Lands, buildings or structures used or to be used for a public hospital receiving aid under the *Public Hospitals Act*, and used for the purposes set out in such Act.

(b) Lands, buildings or structures owned by and used or to be used for a college or university as defined in section 171.1 of the *Education Act*, and used for the purposes set out in such Act.

(c) Lands, buildings or structures used or to be used for a place of worship or for the purpose of a cemetery or burial ground.

(d) Temporary sales offices or pavilions that are required and associated with the sale of new residential development to the public at large.

(e) Industrial Uses.

(f) Lands, buildings or structures for which the City has given final approval for a grant under the Imagination, Manufacturing, Innovation and Technology Financial Incentives Program adopted pursuant to a Community Improvement Plan within a Community Improvement Plan Area, as designated under s.28 of the *Planning Act*, subject to the execution by the owner of an agreement in a form satisfactory to the City to secure the owner's continued participation in the Imagination, Manufacturing, Innovation and Technology Financial Incentives Program, or successor program.

(4) Where development charges have been paid with respect to lands, buildings or structures which the City has certified as having met all of the Tier 2 requirements of the Toronto Green Standard Program, or successor program, a refund will be given in an amount equal to 20% of the development charges so paid.

C. Redevelopment.

(1) Despite any other provision of this article and subject to Subsection C(2), where, as a result of the redevelopment of land, a demolition permit has been issued within the thirty-six month period immediately prior to the date of submission of a complete building permit application with respect to the whole or a part of a building or structure existing on the same land, or a building or structure is to be converted from one use to another use on the same land, the development charges otherwise payable with respect to such building permit application shall be reduced as follows:

(a) In the case of a residential building or structure, or the residential uses in a mixed-use building or structure, which is being redeveloped for residential or non-residential purposes, the development charges will be reduced by an amount calculated by multiplying the applicable development charge

under Subsection A by the number of dwelling units or dwelling rooms that have been or will be demolished or converted to another type of residential use or non-residential use, and according to the type of dwelling unit or dwelling room so demolished or converted.

(b) In the case of a non-residential building or structure, or the non-residential uses in a mixed-use building or structure, which is being redeveloped for non-residential purposes, no development charge will be imposed to the extent that the existing non-residential gross floor area to be demolished would be subject to the payment of development charges at the time of building permit issuance for the new building or structure and is replaced by new non-residential gross floor area; however, development charges will be imposed on all additional non-residential gross floor area in excess of the existing non-residential gross floor area that has been or will be demolished.

(c) In the case of a non-residential building or structure, or the non-residential uses in a mixed-use building or structure, which is being redeveloped for residential purposes, there shall be no reduction in the amount of development charges payable.

(2) The amounts of any reduction under Subsection C(1) shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

§ 415-8. Calculation and payment of development charges.

A. Development charges applicable to development shall be calculated, payable and collected as of the date a building permit is issued in respect of the building or structure for the use to which the development charge applies, unless the development charge is to be paid or has been paid at a different time under Subsection C or D or under an agreement entered into between the City and the owner under subsection 27(1) of the Act.

B. Despite § 415-5B, if two or more of the actions described in § 415-5A occur at different times, additional development charges shall be imposed in respect of any increased non-residential gross floor area or additional dwelling units or dwelling rooms permitted by that action.

C. Despite the provisions of this article, Council may enter into an agreement with any person who is required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable.

D. (1) Despite Subsection A, the development charge with respect to water, sanitary sewers, roads and storm water management services, to be calculated in accordance with the percentage of charge by service set out in Schedules A and B

at the end of this chapter, shall be payable with respect to an approval of a plan of subdivision under section 51 of the *Planning Act*, immediately upon the parties entering into a subdivision agreement.

(2) The outstanding balance of the development charge applicable to development with respect to a plan of subdivision shall be calculated, payable and collected at the rate in effect on the date a building permit is issued in respect of the building or structure for the use to which the development charge applies.

E. Where under a written agreement entered into by a former municipality which required payments pursuant to a by-law of the former municipality enacted under the *Development Charges Act*, R.S.O. 1990, unless the agreement provides otherwise, any payment of the development charge under the agreement shall be a pro rata credit against the outstanding balance of the development charge applicable to the development which shall be calculated on a pro rata basis, payable and collected as of the date a building permit is issued, or upon execution of a subdivision agreement as provided for in Subsection D(1), in respect of the building or structure for the use to which the development charge applies, but the amount of any such credit shall not exceed, in total, the amount of the development charge otherwise payable.

F. Where under a written agreement entered into by a former municipality which required the provision of work pursuant to the *Development Charges Act*, R.S.O. 1990, relating to a service set out in § 415-2, unless the agreement provides otherwise, the provision of services under the agreement shall be a pro rata credit equal to the reasonable cost to the owner of providing the work or service, against the balance of the development charge applicable to the development which shall be calculated on a pro rata basis, payable and collected as of the date a building permit is issued, or upon execution of a subdivision agreement as provided for in Subsection D(1), in respect of the building or structure for the use to which the development charge applies, but the amount of any such credit shall not exceed the total amount of the development charge payable with respect to that service applicable to that development and calculated in accordance with the percentage of charge by service set out in Schedule A or B at the end of this chapter.

G. Where a development charge or any part of it remains unpaid at any time after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

§ 415-9. Payment by services.

A. Despite the provisions of this article, Council may enter into a written agreement requiring the City to provide a credit to an owner against all or part of the development charge payable in respect of a particular development by the provision of work that relates to one or more of the services referred to in § 415-2C, but the credit shall not exceed the standard for the equivalent service for which a development charge is payable under this article.

B. The agreement shall provide for a credit equal to the reasonable cost to the owner of providing the work or service, but the credit shall not exceed the total amount of the development charge payable with respect to that service and calculated in accordance with the percentage of charge by service set out in Schedule A or B at the end of this chapter, applicable to that development.

C. Nothing in this article prevents Council from requiring, as a condition of any approval given under the *Planning Act*, that the owner, at the owner's expense, install such local services and local connections as Council may require and are related to the development.

§ 415-10. Front ending agreements.

Council may enter into front ending agreements with an owner or owners of land in accordance with section 44 of the Act.

§ 415-11. Indexing.

A. The amount of development charges as calculated under § 415-7 shall be adjusted by the City without amendment to this article on February 1, 2010, and on February 1 of each subsequent year, in accordance with the most recent change in the Statistics Canada Quarterly Capital Expenditure Price Statistics, Catalogue Number 62-007-X for the preceding 12-month period.

B. For greater certainty, on February 1 of each year, any increase in development charges made pursuant to **§** 415-7 will be applied first, and then the indexing adjustment will be applied to the development charge as so increased.

C. For greater certainty, Catalogue 62-007-X shall be referred to, and the Non-Residential Building Construction Price Index (Toronto) shall be used.

§ 415-12. Phasing in of development charges.

The phasing in of the development charge calculated, payable and collected under this article shall be as shown on Schedules A and B at the end of this chapter, and as described in § 415-7A and § 415-7B.

§ 415-13. Term of article.

This article shall continue in full force and effect for a term of five years from the date on which it comes into force.

§ 415-14. Refunds.

Where development charges have been paid on the issuance of a building permit and the building permit is subsequently cancelled or revoked, for the purposes of this article the building permit

shall be deemed never to have been issued, and the amount of the development charges paid shall be refunded to the payor without interest.

§ 415-14.1. Additional development charges.

Additional development charges may be imposed under other by-laws.

§ 415-14.2. Amendment, Repeal and Coming into Force

A. Chapter 415 is also amended by deleting Schedules A and B to Chapter 415, Article I at the end of the chapter and substituting Schedules A and B at the end of this by-law.

B. As section 1 of this by-law has the effect of repealing codified By-law No. 547-2004, "Being A By-law Respecting Development Charges." By-law No. 547-2004 is repealed for by-law record keeping purposes as of the date of this by-law coming into force.

C. This by-law shall come into force on February 1, 2009.

ENACTED AND PASSED this day of December, A.D. 2008.

DAVID R. MILLER, Mayor

ULLI S. WATKISS City Clerk

(Corporate Seal)

SCHEDULE A TO CH. 415, ART. I
RESIDENTIAL DEVELOPMENT CHARGES

(1) RESIDENTIAL DEVELOPMENT CHARGE PER UNIT

Column 1 Unit Type	Column 2 * Feb. 1, 2009 to Jan. 31, 2010	Column 3 Maximum Calculated Charge	Column 4 ** Column 3 minus Column 2
Single detached and semi-detached dwelling	$11,082	$25,095	$14,013
Apartment unit – two bedroom and larger	$7,187	$16,007	$8,820
Apartment unit – one bedroom and bachelor unit	$4,467	$10,920	$6,453
Multiple dwelling unit	$8,819	$20,348	$11,529
Dwelling room	$2,864	$6,783	$3,919

(2) RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED AS A PERCENTAGE OF CHARGE BY SERVICE

Column 1	Column 2 Percentage
Spadina Subway Extension	11.55%
Transit (Balance)	16.91%
Roads and Related	17.30%
Water	13.29%
Sanitary Sewer	2.55%
Storm Water Management	2.14%
Parks and Recreation	14.77%
Library	5.58%
Subsidized Housing	9.21%
Police	1.84%
Fire	0.79%
EMS	0.14%
Development-related Studies	1.41%
Civic Improvements	1.10%
Child Care	1.11%
Health	0.27%
Pedestrian Infrastructure	0.04%
Total percentage of charge by service	100.00%

NOTE:

* The amounts shown in Column 2 will be adjusted in accordance with § 415-11 of By-law No. 547-2004.

** The amounts shown in Column 4 will be adjusted to reflect the above adjustments to Column 2.

SCHEDULE B TO CH. 415, ART. I
NON-RESIDENTIAL DEVELOPMENT CHARGES

(1) NON-RESIDENTIAL DEVELOPMENT CHARGE PER SQUARE METRE

Column 1 **Non-residential Use**	**Column 2 * Feb. 1, 2009 to Jan. 31, 2010**	**Column 3 Maximum Calculated Charge**	**Column 4 ** Column 3 minus Column 2**
Non-Residential Use	$88.98	$177.07	$88.09

(2) NON-RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED AS A PERCENTAGE OF CHARGE BY SERVICE

Column 1	Column 2 Percentage
Spadina Subway Extension	11.48%
Transit (Balance)	23.26%
Roads and Related	24.02%
Water	21.12%
Sanitary Sewer	6.14%
Storm Water Management	3.41%
Parks and Recreation	1.16%
Library	0.43%
Subsidized Housing	0.00%
Police	2.53%
Fire	1.09%
EMS	0.07%
Development-related Studies	1.96%
Civic Improvements	1.53%
Child Care	1.52%
Health	0.05%
Pedestrian Infrastructure	0.23%
Total percentage of charge by service	100.00%

NOTE:

* The amount shown in Column 2 will be adjusted in accordance with § 415-11 of By-law No. 547-2004.

** The amount shown in Column 4 will be adjusted to reflect the above adjustments to Column 2.

Appendix 2

Public Consultation Program & Issues Raised

Table A2-1: Summary of Consultation Meetings to date

	Organization	Date
1.	Toronto Board of Trade	January 11, 2008
2.	Building, Industry and Land Development Association	January 16, 2008
3.	Development Industry and Business Association Representatives (1)*	January 31, 2008
4.	Ward 25 Ratepayers	February 25, 2008
5.	Development Industry and Business Association Representatives (2)*	March 28, 2008
6.	IBI Group and Watson & Associates Economists Ltd. – technical	March 31, 2008
7.	Development Industry and Business Association Representatives (3)*	April 24, 2008
8.	Development Industry and Business Association Representatives (4)*	October 23, 2008
9.	*Development Industry and Business Association Representatives (5)**	*To be scheduled*

* Toronto Board of Trade; Building Industry and Land Development Association; Real Property Association of Canada; Toronto Real Estate Board

1. Summary of Key Issues Raised

The following is a high-level summary of key concerns raised at the consultation meetings.

a) Development Industry and Business Association Representatives

i. Support for a reduction in the residential development charge rate and possible review of the non-profit housing exemption to include ownership housing. The City's decision to reduce the residential charge in 2004 for rate supported services was noted as being positive.
ii. Concern that the City should encourage employment growth, and that development charges would be a disincentive for non-residential development.
iii. Question on the City's contingency plans in the event of an economic downturn.

iv. Need for transition provisions, especially for large multi-residential projects.
v. There should be some incentives for brownfield redevelopment and developments that qualify under the TIEG program.
vi. Questions relating to the capital plan, redevelopment policy, definitions and city-wide/area-specific application of the Development Charge By-law, particularly for the Waterfront and downtown core.
vii. Technical questions regarding the development charge calculations, deductions, cost increases and reserve fund utilization.
viii. Question on applicability of development charges to hotels, motels and self-storage facilities.
ix. Questions on relevance of inter-municipal comparisons, and that a comparison to other major North American Cities would be appropriate.
x. Concerns with the growth forecast, in comparison to the census figures, the Province's Places to Grow, and historical employment growth.

b) Ratepayers

i. Growth should pay for itself.
ii. Concerns that development charges only partially recover growth costs and should be implemented as fully and quickly as possible so that the burden does not fall on residents in the form of higher taxation and user fees.
iii. Questions regarding the nature of capital works to be funded by development charges.

Appendix 2A

Comments from Toronto Real Estate Board

Staff received a communication dated April 3, 2008 (reproduced below) from the Toronto Real Estate Board (TREB). A summary of the key concerns raised and the response from staff are as follows:

Principal TREB Comments and Issues:

- Minimize development charge increases and ensure consideration of the impact on other City objectives, including employment growth, the affordable housing strategy, Tax Increment Equivalent Grant (TIEG) program, the City's Agenda for Prosperity, and intensification targets in the Official Plan.
- Ensure that only growth-related capital costs are included in the study
- Transition provisions, including grandparenting, are necessary
- The proposed By-law should include relief for affordable rental and ownership housing, as well as non-residential development

Preliminary staff response:

Staff is awaiting input from the public meeting prior to making any final recommendations with respect to the level of development charges and transition provisions, including grandparenting provisions. However, it is noted that the proposed By-law continues many of the residential and non-residential development charge exemptions found in the current By-law. Also, it is proposed that developments which qualify for financial incentives under the IMIT Financial Incentives program, which includes Tax Increment Equivalent Grants (TIEGs), would be exempt from development charges. Issues related to affordable ownership housing, including RRAP, are discussed in the body of the staff report. With respect to the capital costs, the development charge legislation only allows for growth-related capital costs to be included in the development charge background study.

Appendix 2A (continued)

Preliminary Comments from Toronto Real Estate Board

Toronto Real Estate Board
www.TorontoRealEstateBoard.com

1400 Don Mills Road
Toronto, Ontario
Canada
M3B 3N1
Tel: (416) 443-8100
Fax:(416) 443-0797

April 3, 2008

Mr. Joe Farag
Director, Special Projects
City of Toronto
City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Dear Mr. Farag,

I am writing to provide you with the Toronto Real Estate Board's preliminary input regarding the City of Toronto's Draft 2008 Development Charge Background Study and forthcoming Development Charge by-law. We look forward to providing additional input once the final version of the Background Study and proposed by-law are made available.

Growth Should Pay for Growth

As you may know, TREB is an association of approximately 27,000 REALTORS® working within the residential, industrial, and commercial markets. TREB's Members know the importance of high quality and efficient municipal infrastructure. As such, TREB acknowledges the need for development charges and recognizes the important role that they play in funding growth-related capital costs.

Keep Development Charges Competitive

It is important for the City's residents and businesses that development charges be as competitive as possible. In this regard, short-term revenue generated by development charges should be considered in the context of long-term city policy objectives, such as intensification, employment growth, and affordable housing.

Recommendations:

- Minimize proposed development charge increases and ensure that the Development Charges Background Study adequately considers the impact of development charges on other City objectives, including:
  - Proposed affordable housing strategy (*Housing Opportunities Toronto*)
  - Tax Increment Equivalent Grant Program
  - The City's *Agenda for Prosperity*
  - Intensification targets of the City's Official Plan
- Ensure that the Development Charges Background Study only includes capital costs that are truly growth-related.

Adequate Transition Provisions Are Necessary

As has been previously recognized by Toronto City Council, adequate transition provisions are critically important to prevent unfair and unexpected burdens on the development industry and on homebuyers. In many cases, the development industry and homebuyers may have made financial decisions prior to proposed increases in development charges. This means that, without adequate transition provisions, many unsuspecting homebuyers could be faced with substantial additional costs because of the cost flow-through clauses included in most purchase agreements.

Interestingly, City Council recognized the importance of protecting homebuyers from unforeseen housing costs when it approved the new Toronto land transfer tax. At that time, City Council approved a grandfathering period, which exempted any purchasers who entered into Agreements of Purchase and Sale prior to December 31, 2007.

Recommendation:

Staff recommendations to City Council should clearly indicate the need for adequate transition provisions, for both the development industry and homebuyers. Transition provisions must include grandfathering for homebuyers who enter into Agreements of Purchase and Sale prior to the approval of a new Development Chare By-law.

Provide Relief for Affordable Ownership Housing

As noted above, it is important that the City's decisions regarding the Development Charge by-law are considered in the context of other City priorities. In this regard, the City's current and proposed by-laws recognize the importance of encouraging affordable housing by providing an exemption for "dwelling units for which the City has granted conditional approval under the Rental Rehabilitation Assistance Program". TREB's interpretation is that this is referring to the rental component of the Canada Mortgage and Housing Corporation's (CMHC) Residential Rehabilitation Assistance Program (RRAP), which is administered by the City.

As you may know the RRAP program has numerous components, including one targeted towards affordable ownership housing. As such, if the intent of the above noted exemption is to capture all RRAP-approved developments, including ownership, than the language of the proposed by-law should be clarified accordingly. In addition, the Background Study should include a detailed consideration of the following:

- The City's Official Plan specifically calls for incentives for both affordable ownership and rental housing, such as exemptions from development charges
- The City's proposed affordable housing strategy, *Housing Opportunities Toronto* (HOT) includes a proposal to "provide enhanced tax deferrals/rebates and other support to help lower-income homeowners purchase and stay in their homes". In this regard, HOT establishes a specific target of assisting 10,000 households, over the next 10 years, to purchase their first home.
- RRAP is administered by the City on behalf of CMHC. As you may know, CMHC's impressive and comprehensive incentives for affordable housing initiatives, including RRAP, are equally targeted towards affordable rental *and* ownership housing.

Given the above noted priorities, the Background Study should also give consideration to broader support for affordable ownership and rental housing, instead of restricting this relief to only RRAP-related initiatives.

Recommendation

- Language in the proposed Development Charges by-law referring to RRAP should be clarified to clearly indicate if it is referring to both rental and ownership components of RRAP. If affordable ownership housing is not included in the current exemption, the proposed exemption should be expanded to include affordable ownership housing.
- Broader support for affordable ownership and rental housing (as per Official Plan definitions), not related to RRAP initiatives, should be provided.

Non-Residential Exemptions Continue to Be Important

The City's competitive position with regard to non-residential development is complicated by various factors, not the least of which is the relatively high property taxes paid by Toronto businesses in comparison to other GTA municipalities. Encouraging non-residential growth benefits not only businesses, but also residents, because this new growth improves the City's fiscal sustainability and quality of life.

Recommendation

Proposed Development Charges by-law should include non-residential development exemptions.

I hope you find TREB's views helpful. We look forward to providing more detailed input as more information is provided by the City. In the meantime, if you have any questions, or comments, please do not hesitate to contact me at 416-443-8150 or vpalmer@trebnet.com or Mauro Ritacca, TREB's Manager of Government Relations, at 416-443-8000 ext. 8043 or mritacca@trebnet.com.

Sincerely,

Von Palmer
Chief Government &
Media Relations Officer

Appendix 3

2008-2017 Capital Program

TABLE ES-6
CITY OF TORONTO
DC 10 YEAR CAPITAL PROGRAM AND DEDUCTIONS
2008 $

Service	Gross Costs	Ineligible re: Level of Service	Benefit to Existing Development	Grant/Subsidy/ Cost Share	Post 2018 Capacity	10% Statutory Deduction	DC Recoverable	DC Recoverable	
								Residential	Non-Residential
1 Spadina Subway Extension	$2,834,000,000	$0	$189,449,280	$2,160,376,800	$113,689,368	N/A	$170,504,352	$102,302,611	$68,201,741
2 Transit (Balance)	$1,485,406,614	$531,139,810	$120,515,475	$475,849,885	$27,185,223	$33,071,622	$297,644,599	$154,775,191	$142,869,407
3 Roads and Related	$527,615,849	$0	$218,920,075	$0	$0	$0	$308,695,773	$160,521,802	$148,173,971
4 Water	$1,036,923,700	$0	$122,312,751	$306,110,580	$383,184,393		$245,315,976	$118,978,248	$126,337,728
5 Sanitary Sewer	$1,214,004,033	$0	$906,764,732	$0	$195,486,950		$111,752,351	$54,199,890	$57,552,461
6 Storm Water Management	$806,187,505	$0	$727,017,300	$0	$41,280,000		$39,880,205	$19,341,900	$20,538,306
7 Parks and Recreation	$355,035,059	$160,811,378	$19,553,657	$1,710,808		$15,296,042	$137,664,375	$130,781,156	$6,883,219
8 Library	$64,137,462	$0	$8,331,418			$5,780,604	$52,025,439	$49,424,167	$2,601,272
9 Housing	$348,012,439	$166,819,277	$90,596,581	$0		$9,059,658	$81,536,923	$81,536,923	$0
10 Police	$80,770,518	$25,281,490	$4,187,986				$31,301,043	$16,276,542	$15,024,500
11 Fire	$23,210,750	$8,306,464	$3,380,859				$13,523,438	$7,032,186	$6,491,250
12 EMS	$1,957,574	$0	$97,879	$0		$185,970	$1,673,726	$1,272,032	$401,694
13 Development-Related Studies	$42,300,000	$0	$12,830,000	$0	$2,967,000	$1,199,550	$25,303,450	$13,061,794	$12,241,656
14 Civic Improvements	$25,571,518	$0	$3,835,728			$2,173,578	$19,562,211	$10,172,350	$9,389,861
15 Childcare	$32,615,011	$0	$7,703,526	$3,691,000		$2,132,048	$19,188,436	$9,977,987	$9,210,449
16 Health	$3,447,840	$345,283	$155,126	$0		$294,743	$2,652,686	$2,380,891	$281,795
17 Pedestrian Infrastructure	$85,000,000	$0	$35,750,000	$8,555,000	$18,980,000	$0	$1,715,000	$343,000	$1,372,000
TOTAL DC	$8,728,196,892	$910,703,701	$2,469,202,375	$2,956,193,872	$762,783,134	$69,193,816	$1,560,139,984	$932,558,673	$627,581,312
Percentage	100.0%	10.4%	28.3%	33.9%	8.7%	0.8%	17.9%	59.8%	40.2%

Notes:
1. Amounts have been adjusted from Appendix A per Appendix B for the following services (transit -excluding the Spadina Ext.; Roads - excluding Waterfront Toronto; library; police; fire and civic improvements
2. Does not include adjustments for uncommitted reserve fund balances
3. In most cases, the figures included under "Grant/Subsidy/Cost Share" reflect the amounts applicable to the growth related portion of the City's share.

Appendix 4

Response to Councillor Moscoe's Request

At the Executive Committee meeting on February 6, 2008, Councillor Moscoe requested that:

1. the City Solicitor to submit a report to the Executive Committee on the growing practice in the development industry of passing development charges directly through to purchasers as a separate charge levied after closing and recommend measures by which the City can (within the Development Charge By-law) or by some other means curtail this practice or at the very least require full disclosure of all development charges as part of the advertised price prior to closure; and

2. the Deputy City Manager and Chief Financial Officer to submit a report to the Executive Committee on the revenue to the City that would accrue if each of the following restrictive provisions of the *Development Charges Act* were lifted:

    i. the general 10 percent reduction;
    ii. the exclusion of costs related to solid waste;
    iii. the provision that future service levels may be costed to no more than the average level attained over the previous ten years;
    iv. the reductions associated with existing excess capacity that may have been provided by a prior administration;
    v. the exclusion of capital costs associated with cultural or entertainment facilities (such as museums, theatres or art galleries), tourism facilities (including convention centres), parkland acquisition, hospital provision, general administration headquarters;
    vi. the exclusion of capital costs involving computers and associated equipment;
    vii. the exclusion of capital costs beyond the next decade;
    viii. extension of the "Vaughan" subway provisions to the entire TTC; and
    ix. any other significant exemptions and reductions.

A. City Solicitor's response to Part 1 of Councillor Moscoe's Request

The *Development Charges Act*, 1997, ("the DC Act") provides a complete legislative framework for the enactment of a development charge By-law and the collection and payment of development charges.

With respect to notice to prospective purchasers of the amount of any development charges payable, the only requirement in the DC Act for such notice relates to the approval of a draft plan of subdivision. Section 59(4) of the DC Act reads as follows:

> "(4) In giving approval to a draft plan of subdivision under subsection 51(31) of the *Planning Act*, the approval authority shall use its power to impose conditions under clause 51(25)(d) of the *Planning Act* to ensure that the persons who first purchase the subdivided land after the final approval of the plan of subdivision are informed, at the time the land is transferred, of all the development charges related to the development."

Apart from this provision, there is no other legislative requirement relating to notice of development charges to purchasers. The DC Act does not authorize a municipality to establish within its development charge By-law a procedure requiring a developer to notify prospective purchasers of all required development charges payments at the time of entering into an Agreement of Purchase and Sale.

Development charges are one of a number of adjustments to the purchase price of a dwelling unit that may be negotiated between a developer and purchaser. Other adjustments are typically made for such matters as GST, realty taxes, common condominium expenses, occupancy fees pending closing, meter installation charges and connection fees (hydro, sewer, water), and administrative fees. All of these adjustments are set out in the Agreement of Purchase and Sale as an addition to the purchase price, and most are a negotiated item between the seller and purchaser. A prudent purchaser would have their Agreement of Purchase and Sale reviewed by a solicitor prior to entering into the agreement.

A proposal to require the disclosure of amount of development charges as part of the advertised price prior to closing is, in essence, a consumer protection measure, and there is no authority under the DC Act to impose this requirement. Equally as important, there is no effective mechanism for the City to enforce such a provision in the event that a seller did not disclose the amount of development charges payable. Further, where the Agreement of Purchase and Sale does specifically provide that the purchaser will be responsible for the payment of development charges, then the vendor has disclosed this fact prior to closing.

B. Consultant's Response to Part 2 of Councillor Moscoe's Request

The second part of Councillor Moscoe's request for information pertains to the DC revenue foregone by the City as a result of a number of restrictive provisions in the DC Act. The City's consultant has provided an estimate of the foregone revenue as summarized in Table A4-1, with details following.

Table A4-1: Estimated Foregone DC Revenue (2008-2018) due to Legislative Restrictions
(summarized from details that follow)

No.	Restrictive Provision	Comment	Estimated 10-Year Foregone DC Revenue ($ millions)
1.	General 10% reduction		$70
2.	Excluding solid waste costs		$20
3.	Previous 10 year average service level limitation		$747
4.	Reductions for excess capacity	Not possible to calculate, but amount significant. Water treatment plant excess capacity alone valued at $74 million over $10 years.	> $74
5.	Excluding cultural, entertainment facilities, park land, hospitals, municipal headquarters.	Park land acquisition funded through Section 42 of Planning Act.	$25 – 30
6.	Excluding computers & related equipment	10-year growth in HQ employees anticipated to be nil (@ $1,500 per person)	$2
7.	Excluding capital costs beyond next decade	No tangible loss in DC revenue	$0
8.	Extending Toronto-York Spadina subway provisions to entire TTC	Removal of 10% reduction and 10-year service level cap	> $35
9.	Other significant exemptions or reductions		N/A
	TOTAL		**Minimum $973**

Appendix 4 (continued)

A BROAD ESTIMATE OF THE ADDITIONAL DEVELOPMENT CHARGE REVENUE THAT WOULD ACCRUE TO THE CITY OF TORONTO IF VARIOUS *DEVELOPMENT CHARGES ACT* RESTRICTIONS WERE REMOVED

1. "THE GENERAL 10 PERCENT REDUCTION"

1.1 s.s.5(1)8 of the DCA requires that in calculating DC-recoverable capital costs (other than those involving sewer, water, storm, roads, fire and police), such costs must be reduced by 10%, after deducting for "beyond service levels," benefit to existing development, excess capacity and grants and subsidies.

1.2 This deduction totals approximately $70 million in the City's 2008 DC calculation, over the 10-year planning period.

2. "THE EXCLUSION OF COSTS RELATED TO SOLID WASTE"

2.1 s.s.2(4)5 of the DCA prevents development charges from being imposed for the capital cost of the provision of waste management services. This potentially relates to the cost of collection and haul vehicles, transfer stations, recycling facilities and landfills.

2.2 Non-residential waste management service provided by the City of Toronto is limited to small commercial development. The costs associated with this service are generally offset by the Yellow Bag Fee so that would be no net capital costs to the City as a result of providing waste management services to new non-residential development.

2.3 The amount of the DC revenue which is foregone by this clause is impacted by the nature of the waste management service that the City expects to provide to the new (residential) development it anticipates. It is understood that the City will be responsible for all such costs with respect to all forms of development, including condominiums, which overwhelmingly represent the most prevalent form of new development in Toronto.

2.4 The estimated capital cost per capita for waste management services is in the order of $150 for a standard planning period. This amounts to approximately $20 million for Toronto's net anticipated population growth of 130,579 over the 10-year period.

3. "THE PROVISION THAT FUTURE SERVICES LEVELS MAY BE COSTED TO NO MORE THAN THE AVERAGE LEVEL ATTAINED OVER THE PREVIOUS TEN YEARS"

3.1 This is a provision of s.s.5(1)4 of the DCA.

3.2 The DC ineligible cost is primarily for transit ($531 million), Parks and Recreation ($181 million) and Fire plus Police ($32 million). The amount beyond the cap for Housing has been restated as $3 million, reflecting the service level to be attained by 2017.

3.3 These deductions amount to $747 million over the 10-year period.

4. "THE REDUCTIONS ASSOCIATED WITH EXISTING EXCESS CAPACITY THAT MAY HAVE BEEN PROVIDED BY A PRIOR ADMINISTRATION"

4.1 This is a provision of s.s.5(1)5 of the DCA.

4.2 It means that any servicing capacity that is in the system and is beyond what is needed for development today, cannot be DC-funded, unless at the time such capacity was created, City Council expressed a clear intention that such excess capacity would be paid for by DCs or similar charges.

4.3 Some of the excess capacity in the City's water, sewer and road system was previously funded by DCs, or grants/subsidies, and is therefore not DC eligible. It is virtually impossible to quantify the value of the City's DC-eligible excess capacity. Water treatment plant excess capacity is used as a significant example, i.e. there is currently 23 mL/day in non-DC-funded excess capacity which is not to be DC-funded, at $3.2 million per mL/day, inclusive of trunk system components, this yields a total of $74 million over the 10-year period. The fact that Metro Toronto did not impose DCs for water/sewer services and therefore did not "commit" excess capacity for development charge recovery purposes, means that a much more significant but indeterminate DC non-recovery is involved.

5. "THE EXCLUSION OF CAPITAL COSTS ASSOCIATED WITH CULTURAL OR ENTERTAINMENT FACILITIES (SUCH AS MUSEUMS, THEATRES OR ART GALLERIES), TOURISM FACILITIES (INCLUDING CONVENTION CENTRES), PARKLAND ACQUISITION, HOSPITAL PROVISION, GENERAL ADMINISTRATION HEAD-QUARTERS"

5.1 These exclusions from DC-eligible services are set out in s.s.2(4) para 1-6 of the DCA. The growth-related components of City expenditures for these purposes, are addressed as follows:

- Cultural or entertainment – City expansion-related investment plans are variable but involve approximately $2 million/year ($20 million over 10 years).

- Tourism facilities - $5-10 million in Zoo capacity-related capital expenditures are involved, at $0.5-1.0 million/year ($5-10 million over 10 years).
- Parkland acquisition – the City's land acquisition requirement is fully covered via *Planning Act* and Alternative Rate By-law provisions
- Hospitals – no City capital contributions are anticipated
- General Admin HQ – not applicable as no increase in administrative staff is anticipated

6. "THE EXCLUSION OF CAPITAL COSTS INVOLVING COMPUTERS AND ASSOCIATED EQUIPMENT"

6.1 This exclusion is contained in s.s.5(3)4(ii) of the DCA.

6.2 The cost of computers and related equipment for administrative staff is nil per item 5.

6.3 Toronto Public Library estimates expenditures totalling $1.5 million over the next ten years to meet the needs of the additional 2008-2018 population.

7. "THE EXCLUSION OF CAPITAL COSTS BEYOND THE NEXT DECADE"

7.1 This exclusion is contained in s.s.5(1)4 of the DCA.

7.2 This restriction does not produce a tangible loss in DC revenue for the City, as the capital projects forecast for the next decade are considered to adequately provide for the needs of ten years of development (and in fact contain some oversizing capacity that can be used beyond that point).

8. "EXTENSION OF THE 'VAUGHAN' SUBWAY PROVISIONS TO THE ENTIRE TTC"

8.1 The DCA legislative changes that pertain to the Spadina Subway extension involve the removal of the 10% statutory deduction (already covered under item #1) and the historical level of service cap (already covered above under item #3). Extending these provisions to the balance of the TTC capital projects would generate $35 million with respect to the 10% deduction and a substantial but very difficult to determine amount with respect to the level of service cap, i.e. the portion of TTC capital spending beyond the $999 million level of service cap is partially growth-related but significantly of benefit to the existing population and the split would have to be made project by project.

9. "ANY OTHER SIGNIFICANT EXEMPTIONS AND REDUCTIONS"

9.1 The foregoing adequately summarizes the City's growth-related capital costs which are non-DC-recoverable as a result of statutory provisions.

Appendix 5

City of Toronto 2008 Development Charge Background Study