

The Regional Municipality of York

Committee of the Whole
Finance and Administration
June 10, 2021

Report of the Commissioner of Finance

2022 Development Charges Bylaw – Status Update

1. Recommendations

1. The Commissioner of Finance be authorized to schedule and give notice for the public meeting(s) required by the *Development Charges Act, 1997*.
2. The Regional Clerk circulate this report to local municipalities and the Building Industry and Land Development Association – York Chapter (BILD).

2. Summary

This report provides Council with an overview of the work plan to update the Region's Development Charges Bylaw, and some preliminary areas of review.

Key Points:

- The current Region-wide Development Charges Bylaw ([2017-35](#)), as [amended](#), expires on June 16, 2022
- The 2022 Region-wide Development Charges Bylaw will reflect legislative changes, and address other policy and administrative issues
- The proposed work plan meets the statutory timeline requirements in the *Development Charges Act, 1997* ("Act")

3. Background

Development charges are the primary source of funding for growth-related capital programs

Development charges are fees collected from developers to help fund growth-related regional services including water, wastewater, roads, transit, policing, paramedics, public health, social housing, and other general services. The current Region-wide Development Charges Bylaw came into effect on June 17, 2017 and was subsequently amended in 2018. The Bylaw, as amended, is helping fund over \$8 billion in vital growth-related infrastructure to support growth to 2031.

Due to statutory deductions, development charges do not fully recover the cost of growth-related infrastructure

Under the Act, Council can impose development charges to recover growth-related capital costs from development within the municipality. Municipalities are, however, required to make deductions for ineligible projects, service-level caps, and the portion of the infrastructure that benefit the existing taxpayers. As a result, development charges do not cover the full cost of services. Furthermore, deductions are made to reflect the extent to which a capital project benefits growth occurring outside of the planning horizon of the bylaw. These deductions (post period benefits) may be recovered through future development charges bylaws.

A new development charges bylaw must come into effect on, or before, June 17, 2022, for the Region to continue collecting development charges

The Act mandates that a development charges bylaw must be updated at least once every five years. The current Region-wide Development Charges Bylaw (2017-35), as amended, will expire on June 16, 2022. As such, a new bylaw must come into effect on or before June 17, 2022, for the Region to continue collecting development charges.

Legislative requirements must be met prior to passing a new development charges bylaw

Under the Act, municipalities must prepare a new background study prior to passing a development charges bylaw. The background study must include the following:

- Demonstrated need for services to accommodate forecasted growth
- Statutory deductions to determine eligible capital costs
- Determination of development charge rates
- Consideration of area-specific development charges
- Asset management plan and financial sustainability analysis

In addition, staff will be reviewing development charges policies as part of the bylaw update.

The Province amended the Act since the Region's last bylaw update

In the last few years, the Province introduced several amendments to the Act. The Region's 2022 Development Charges Bylaw will reflect, where appropriate, recent amendments to the Act introduced by Bill 108, *More Homes, More Choice Act, 2019* ("Bill 108"), Bill 138, *Plan to Build Ontario Together Act, 2019* ("Bill 138"), and Bill 197, *COVID-19 Economic Recovery Act, 2020* ("Bill 197"). Table 1 summarizes the key changes to the Act.

Table 1
Summary of Key Changes to the *Development Charges Act, 1997*

Area	Description
Eligible services	List of eligible services expanded to include all services the Region provides
Amount of charge	Development charge rates are frozen at the date of site plan or zoning bylaw amendment application
Timing of payment	Rental, institutional, and non-profit housing can phase development charge payments over five or 20 years
Deductions	Removal of the 10% statutory deduction
Planning horizon	Removal of the 10-Year planning horizon limitation for all services except transit
Classes of services	Allows for components of a service or a combination of services (e.g., growth studies)
Exemptions	Provided further clarification on the development charge exemption of secondary suites

In addition to the above changes, Bill 197 amended the *Planning Act, 1990* as it relates to community benefits charges, which were first introduced in 2019 under Bill 108. As a result of the amendment, only single-tier and local municipalities can levy community benefits charges.

Council has requested the Province make legislative changes to the Act so the Region may continue on its path towards financial sustainability while funding its share of the Yonge Subway Extension

According to the [Ontario-York Region Transit Partnership Preliminary Agreement](#), the Region’s expected to contribute its pro-rata share of the capital construction costs of the Yonge Subway Extension, which is expected to be over \$1 billion.

In light of this, on March 25, 2021, Council adopted a [resolution](#) requesting legislative changes so that the Region may fund its share of the Yonge Subway Extension’s capital costs in a financially sustainable manner:

- Amend the Act to treat the Yonge Subway Extension as a discrete service, not limited to a 10-year planning horizon; and
- Repeal section 26.2 of the Act, or exempt the Yonge Subway Extension (as a discrete service) from the freezing provisions under section 26.2

This resolution also requested the Province extend the Region’s growth-cost supplement of the Annual Repayment Limit for another 10 years. As detailed in the [memorandum](#) of the Commissioner of Finance, dated April 19, 2021, the Province has responded to Council’s request and renewed this provision.

4. Analysis

2022 DEVELOPMENT CHARGES BYLAW UPDATE WORKPLAN

The 2022 Development Charges Bylaw will reflect recent legislative changes and review administrative and policy issues

As noted previously, the Act has been subject to amendments over the last two years. The Region’s 2022 Development Charges Bylaw will reflect, where appropriate, those changes. In addition to this, a number of methodological and policy issues will be reviewed as part of the 2022 Development Charges Bylaw update. Table 2 highlights key areas of review. This is not an exhaustive list and other methodologies and/or policies may be identified during the consultation process.

Table 2
Key Areas of Review for the 2022 Development Charges Bylaw Update

Area	Description
Development forecast	Timing and distribution of population and employment growth to align with the Municipal Comprehensive Review
Length of planning horizon	Planning horizon for services in the bylaw can align with, or be less than, 30 year planning horizon for Municipal Comprehensive Review (Transit services limited to 10 years)
Density assumptions	Review persons per unit (PPU) assumptions in residential developments and floor space per worker (FSW) assumptions in non-residential developments
Cost attribution between residential and non-residential development	Attribution of capital costs between residential and non-residential development, and within the non-residential development types
Residential rate structure	Review current residential rate structure (e.g., apartment delineation point, treatment of stacked townhomes)

Area	Description
Treatment of the Yonge Subway Extension	Evaluate methodologies and assumptions for the development charge treatment of the Yonge Subway Extension
Consideration of area-specific development charges	Consider options for implementing area-specific development charges within York Region

Staff recommend tabling the draft Development Charges Bylaw in February 2022

Under the Act, the development charges background study must be made publicly available at least 60 days prior to the passing of the bylaw. Additionally, at least one public meeting must be held with at least 20 days' notice and the proposed bylaw and background study made available to the public at least two weeks prior to the public meeting. A February 2022 tabling ensures these statutory requirements can be met while providing sufficient time for additional stakeholder feedback through a second public meeting (if needed).

Table 3 describes the statutory requirements, Council engagements, and applicable tentative dates. The proposed workplan meets the statutory requirements.

**Table 3
Tentative Timeline for the Development Charges Bylaw Update Process**

Deliverable	Tentative Timeline*	Statutory Requirement
2022 Development Charges Bylaw Background Study and Bylaw tabled at Committee of the Whole	February 2022	<p>At least 2 weeks</p> <p>At least 20 days</p> <p>At least 60 days</p>
Notice of public meeting published in all local Metroland newspapers	February 2022	
Public meeting at Committee of the Whole	March 2022	
2022 Development Charges Bylaw to Council for approval	May 2022	
2022 Development Charges Bylaw and rates come into effect	June 17, 2022	

*Note: Dates are subject to the 2022 Committee and Council schedule

Stakeholder consultation will be an integral part of the 2022 Development Charges Bylaw Update process

In the first quarter of 2021, staff engaged with local municipalities and the Building Industry and Land Development Association – York Chapter (BILD) to inform them of the current development charges bylaw's impending expiration and to seek initial feedback for the 2022 Development Charges Bylaw update process.

Throughout the process, staff will continue to engage with local municipalities, representatives of BILD, non-residential developers, and other stakeholders. This consultation process will help ensure all stakeholders understand the Region's infrastructure investments, policies, methodologies, and assumptions for calculating and attributing growth-related capital costs.

DEVELOPMENT CHARGES TREATMENT OF THE YONGE SUBWAY EXTENSION

New information regarding the Yonge Subway Extension could become available, impacting the development charges treatment and rate

On March 18, 2021, Metrolinx released the Initial Business Case on the Yonge Subway Extension that evaluated alignment options and confirmed the strategic and economic value of the project. Through the Initial Business Case, Metrolinx recommended advancing the design and conducting a more detailed analysis of the growth forecasts along the corridor through a Preliminary Design Business Case. Based on the timeline in the Initial Business Case, it is expected that the Yonge Subway Extension procurement contract would be awarded in Fall 2023, with the subway open for service in 2029/2030, following the opening of the Ontario Line.

On May 11th, 2021, the Federal Government announced a funding commitment of \$10.7 billion, or 40% of the capital costs, to support the delivery of the Province's four priority subways, including the Yonge Subway Extension.

New information regarding the Yonge Subway Extension could still become available through further analysis by Metrolinx and/or legislative changes by the Province, which would impact the development charges treatment and rate calculation. Table 4 summarizes the potential elements that could change between now and the completion of the background study and their implication to the Region's development charges treatment.

Table 4
Summary of Potential Changes and Implications

Element	Potential Implications
Scope of work	<ul style="list-style-type: none"> • Cost estimates
Cost estimates	<ul style="list-style-type: none"> • The Region's cost, and development charges rates
Requested legislative changes	<ul style="list-style-type: none"> • Statutory deductions, ability to freeze development charge rates, and speed of cost recovery through development charges
In-service date	<ul style="list-style-type: none"> • Statutory deductions and speed of cost recovery through development charges

The 2022 Development Charges Bylaw will consider the use of area-specific development charges

Under the Act, municipalities are required to consider area-specific charges for all services as part of their background studies. However, the Province has not provided prescribed how municipalities would satisfy this requirement.

The Region currently has uniform region-wide development charge rates, with the exception of the Village of Nobleton, which has an area-specific rate for wastewater services. As part of the bylaw update, staff will consider whether it is appropriate to implement area-specific development charges for other services.

Staff will consider the policy rationale and implications of an area-specific development charges, including:

- Options for area delineation
- Types of services/components suitable for area-specific development charges
- Linkages between the need for service and growth within an area
- Fairness and affordability across the Region
- Financial and administrative implications of adopting area-specific development charges
- Other options for restructuring development charge rates to achieve the Region's policy objectives and priorities

An area-specific approach for transit development charges is largely untested in Ontario

Typically, area-specific development charges have been used for infrastructure that has clear benefits to a defined geographical area, such as water and wastewater services, storm water management, and collector/minor arterial roads.

Since regional transit services are designed and provided as a network service, it is difficult to allocate costs by benefiting area, due to the movement of people across a municipality. As a result, transit development charges are mostly levied under a municipal-wide approach. Notably, the City of Toronto once had an area-specific development charge for the Sheppard Subway Extension, but ultimately moved the project costs into the City-wide transit charge. Table 5 summarizes the development charge treatment for transit services in other municipalities.

Table 5
Interjurisdictional Scan of Transit Development Charges

Municipality	Development Charges Treatment	
	Municipal-Wide Bylaw	Area-Specific Bylaw
City of Toronto*	✓	
City of Mississauga	✓	
City of Brampton	✓	
Durham Region	✓	
Town of Oakville	✓	
City of Hamilton	✓	
Waterloo Region**	✓	

* Note: Municipalities with a transit development charge that includes higher-order projects (e.g., subway extensions, LRTs).

**Note: Waterloo Region's area-specific transit charge is levied on the Cities only, based on the transit service area

ADMINISTRATIVE AMENDMENTS TO DEVELOPMENT CHARGES POLICIES

Staff will be reviewing development charge policies for alignment with recent legislative changes and standardized wording

Staff will also be reviewing the Region's development charge policies and proposing technical amendments that are intended to align with recent legislative changes and use standardized wording. The review will include the following development charges policies:

- Development Charges Deferral for Purpose-Built Rental Buildings
- Development Charges Deferral for Open Air Motor Vehicle Storage Structures
- Development Charges Deferral for Office Buildings
- Development Charges Deferral for Retail Buildings
- Development Charges Deferral for High-Rise Residential Buildings
- Development Charge Interest Policy – Under sections 26.1 and 26.2 of the *Development Charges Act, 1997*

5. Financial

Development charges are the primary source of funding growth-related capital infrastructure in the Region. In the Region's 2021 Ten-Year Capital Plan, development charges fund approximately 60% of the growth-related capital. Passing a new development charges bylaw prior to June 17, 2022 ensures that the Region can continue to recover development charges and deliver its vital growth-related capital program.

6. Local Impact

Both the quantum and the timing of development charges collections are critical to building growth-related infrastructure. Development charges collections affect the timing of growth-related infrastructure investments.

In addition, local municipalities may choose to mirror the Region's development charges policies. Regional staff will consult with local municipalities throughout the process to ensure that any concerns are appropriately considered.


7. Conclusion

In order to continue to levy and collect development charges the Region must update its development charges bylaw at least once every five years. This provides an opportunity to review assumptions and methodologies to update the capital costs required to accommodate growth and to align with recent legislative changes. Staff have initiated the process for the 2022 Development Charges Bylaw update.

The Act requires the Region to prepare a background study and make it publicly available 60 days prior to the bylaw being passed by Council. It is anticipated that the Background Study will be tabled in February 2022 and the proposed bylaw will be considered by Council for passage in May 2022.

For more information on this report, please contact Edward Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644. Accessible formats or communication supports are available upon request.

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