

Implementing Development Charges:

A Strategy for Nova Scotia's Municipalities

Definition of DCs

1.0 Introduction

Development charges (DCs) are applied to recover some or all of the costs associated with new, off-site capital investment resulting from new development. They are used extensively by most every municipality in Ontario, British Columbia, and Alberta. DCs have also been employed in various other jurisdictions, including Saskatchewan, Quebec and, more recently, Nova Scotia. As one of the leading expenditure categories for local government, infrastructure provision plays a prominent role in decisions concerning the budget and, therefore, how to provide new infrastructure (and how to pay for its upkeep) is a topic of much debate amongst elected officials, municipal administrators, the media and the general public.

Innovation

Municipalities are in need of innovation in the provision of infrastructure. DCs can act as a tool that supplements traditional sources and methods of financing to overcome cash flow shortages and attract new sources of capital.

Overall Strategy Outline

The overall strategy will be divided along a number of important policy issues inherent in the generation of a DC by-law. The first section will be concerned the need for effective public and stakeholder consultation. After sufficient feedback is attained, a number of logistical decisions need to be made. These range from the extent of the application of the charges to the categories of land-use to be charged as well as the eligibility of projects under the DC program. The final section will consider some relevant issues surrounding by-law administration.

The goal of this strategy is to provide municipalities with critical information concerning the potential benefits of DCs as well as to provide the questions that will need to be asked if the DC route is chosen.

**Policy
Considerations
-Overview**

By-law Development

The policy considerations in developing a DC by-law include the following:

- An appropriate public consultation process;
- The extent of application of the charges (municipal-wide or area-specific);
- The categories of land use to be charged and the appropriate units for the charges (a unit or area basis); and,
- The eligibility of projects; and,
- The administrative considerations pursuant to the passing of the by-law.

**Stakeholder
Consultation**

2.0 Public Consultation Process

Public/stakeholder participation and consultation is one of the guiding principles in establishing DCs. The authority to adopt a DC by-law rests with elected officials. There are no mandatory public consultation activities in the DC legislation, such as the public hearing requirements for a rezoning application. However, DCs that are perceived as too excessive, or act to deter development or discourage construction of reasonably priced housing can lead to complications in the passing of a by-law. Evidence of public/stakeholder consultation may address some of these issues.

The experiences of local governments in Ontario, Alberta, and British Columbia indicate that a meaningful public process tends to generate DC by-laws which are effective and accepted by stakeholders who have participated in the decision-making.

**Stakeholder
Definition**

In the case of a DC by-law, stakeholders are defined as all persons, groups or organizations that have a perceived, actual, or potential stake or interest in the results of the decision-making process. Public participation provides an opportunity for stakeholders to be heard and to influence the policies of decision-makers.

The level of input should be limited to DC considerations, such as the use of municipal-wide or area-specific DCs, benefit allocation, and a suitable grace period for changes to DC by-laws. This is because consultations on the other relevant planning documents have their own consultation requirements.

At a minimum, consultation should include representation from residential and non-residential developers, the public, as well as local government staff from the planning, engineering and finance departments.

3.0 Extent of Application

The extent to which DCs will be applied in a municipality is an issue which should be considered when developing a DC by-law. Deciding whether the proposed DC will be a “municipal-wide” or “area-specific” charge will influence the DC program and the calculation of charges.

Municipal-wide DC

3.1 A Municipal-wide Charge

A municipal-wide DC means that the same DC rate is applied for a particular type of land use deemed to generate a similar or same capital cost burden, throughout the municipality regardless of the location of any specific development.

Area-Specific DC

3.2 An Area-specific Charge

An area-specific DC divides the municipality into areas according to geography or any other distinctive quality for the purpose of determining the DC. As each area has its own set of DC projects, this results in a distinct charge for a particular type of land use within the defined area. The charges may differ substantially between areas depending on respective servicing requirements and projected development.

Fairness and Equity

3.3 Criteria for Decision-Making

Whichever approach is taken, it should support the principle of fairness and equity. Some general considerations in choosing between the two options include:

- The relationship between those who pay the DC and benefiting users;
- The complexity and costs of administration associated with numerous charges;
- Ensuring the DC program is comprehensive and readable by the public to avoid confusion;
- Equitable and fair distribution of costs in relation to developing land in different areas of a municipality;
- Cash flow considerations;

**Municipal-
Wide vs. Area-
Specific
Charges**

- Funding flexibility associated with fewer but larger accounts; and,
- The desire to support growth in cost effective areas.

When the circumstances within a certain area (such as projected new development units or the capital cost requirements) deviate significantly from the average condition, consideration should be given to an area-specific charge. However, if new development is projected to occur fairly evenly throughout the municipality, and the capital cost burdens between neighbourhoods are similar, then consideration should be given to a municipal-wide charge. In this case, some fairness and equity is perceived to be “traded off” for simplicity and reduced administrative effort.

Each municipality must determine when type of charge fits with the largely unique circumstances present within their jurisdiction.

4.0 The Categories of Land-Use to be Charged

The [*Municipal Government Act s. 274 \(4\)*](#) provides the authorization for DCs to be imposed according to different zones or specified types of areas (delineated through the municipal land-use planning process) or different uses.

**Local context
consideration**

Municipalities differ across the province in terms of residential, commercial and industrial composition. The by-law must consider the respective economic and environmental burdens placed on the municipality by each type of land-use and charge that category appropriately. The decision as to how detailed the breakdown of the categories of development should be, for the purpose of setting a DC, is essentially one that acknowledges “density” subsets within each basic land use category. The relative benefit received between various types of land use is directly related to the density of new development, whether it is expressed as persons per dwelling unit, a per capita demand, equivalent service population, or the size of the unit. For example, different types of residential land use impact the road network differently. To recognize the differences in relative impact, DCs can be implemented for various residential uses such as rural, single family, low density multi-family, and high density multi-family.

**DC Unit
Measurement**

4.1 The Appropriate Units for the Charges

Evidence from other municipalities suggests that for residential development, residential DC categories should be established according to a density gradient. For commercial and institutional DCs, floorspace should be used as the representative unit, while for industrial land use DCs should be established on a gross site area basis.

**Eligibility of
Projects**

5.0 The Eligibility of Projects

The [Municipal Government Act s. 274 \(2\)](#) contains the provision that allows local government to use DCs to assist in the payment of capital costs associated with new or expanded:

- Water systems;
- Wastewater facilities;
- Storm water systems;
- Streets;
- Solid-waste management facilities;
- Traffic signs and signals; and,
- Transit facilities.

In every case, the municipality must delineate which costs will be recoverable through infrastructure charges.

**When are DCs
Payable?**

6.0 By-law Administration

6.1 Collection of Charges

Infrastructure charges are payable by the subdivider before final approval is given for the subdivision: [s.274 \(7\)](#). In order to allow for some flexibility, legislation authorizes an infrastructure charges agreement ([s. 275](#)) to provide for the payment of the charges over time and permit final approval, and sale of lots, before the charges are paid in full.

The agreement may:

- Allow the payment of the charges by installments;
- Allow an applicant to pay the charges in kind, through the provision or extension of services; and,
- Provide for security to ensure the charges are paid when due.

Interest on Balances

The agreement should also provide for interest on any outstanding balance, and a time period in which all charges must be paid. However, the [*Municipal Government Act s. 275*](#) allows for municipalities to enter into agreements that provide for the payment of the charges over time and permit final approval, and sale of lots, before the charges are paid in full.

Why payable at Subdivision Approval Stage?

Subdivision approval is typically a convenient stage for a municipality to collect the charges for single family development (and duplex). Further, charging developers at the subdivision phase is logical if the lots are predominantly created by subdivision (e.g., greenfield developments). Frequently at this point in the development process, only the total area of the subdivision and the number of lots created are known. Most likely, the building areas of the units have not yet been finalized. Therefore, if single family DCs are levied on a per lot or per lot area basis, the total DCs can easily be levied at subdivision approval. If single-family DCs are levied according to floor space, the total DCs payable would be difficult to determine at the subdivision phase, as the information would not be readily available.

Commercial Development

However, for commercial and institutional development, depending on the metric chosen by municipalities, it may be impractical to charge DCs at the subdivision phase. If these charges are based on gross site area, the total DCs could be calculated at subdivision approval. If the charges are based on building area, it may be impractical to collect DCs upon subdivision approval, as once again, the building area may not be known.

It is noted that non-residential developers often do not completely develop their sites all at once. Therefore, it may be unfair to require DCs for the entire site to be paid at subdivision, when the first stage of site development is constructed. On the other hand, the required services may be installed several years before any building proceeds. Consideration of these issues needs to occur when approving developments.

6.2 Grace Periods and In-Stream Funding

Grace Periods

When a municipality implements or amends a DC by-law, developers or those parties paying DCs will be affected by the new charges. For a developer, project funding is usually arranged

early in the development process (even before rezoning, if required). Therefore, stability of DC rates and how projects in progress are affected have a great impact on the viability of land development. A valid subdivision or building permit application would pay the DC rates applicable at the time of application and allow for a sufficient grace period for developers after implementation.

Further Information:

For enabling legislation, see the [*Municipal Government Act, ss. 274-276.*](#)