



STAFF REPORT ACTION REQUIRED

Development Charges – Amendments to the Proposed DC By-law relating to self storage facilities

Date:	February 16, 2009
To:	City Council
From:	Acting Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2009\Internal Services\SP\CC09003SP (AFS# 9444)

SUMMARY

The purpose of this report is to provide for Council’s consideration an amendment to the proposed Development Charges By-law relating to self storage facilities. Staff has reconsidered the issue of whether self storage facilities should attract a development charge, which is the case under the proposed Development Charges By-law that is currently before Council, or to exempt these facilities. Staff is recommending that self storage facilities be deemed industrial uses for the purposes of the by-law and thereby be exempted from the payment of development charges.

RECOMMENDATIONS

The Acting Deputy City Manager and Chief Financial Officer recommends that:

1. Council amend the proposed Development Charges By-law by substituting the definition of Industrial Uses with the following:

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, self storage facility, 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) warehouse clubs and retail warehouses, including commercial establishments which have as their principal use the sale of goods and merchandise in a warehouse format.

2. Council authorize and direct the appropriate City staff to take necessary action to give effect thereto.

Financial Impact

Based on a review of the number and size of self storage developments that have historically occurred across the City, it is estimated that on average less than \$1 million will be foregone over the life of the by-law as a result of adopting the recommendations of this report.

COMMENTS

Self storage uses are not on the list of specific exemptions included in the proposed DC by-law, and the proposed by-law currently explicitly excludes these from the definition of Industrial (which does enjoy an exemption). Recently, concerns have been raised by representatives of the self storage industry that the proposed by-law appears to be inconsistent with the position taken by Council under the existing DC by-law. As a result, staff has reconsidered the issue of whether or not self storage uses should be exempted from DCs.

It is noted that in 2006, under the existing 2004 DC By-law, three complaints were filed, pursuant to section 20 of the *Development Charges Act, 1997*, disputing the City's assessment and collection of DCs relating to self storage facilities. The City had collected DCs for some of these facilities on the basis that they were considered "retail" as defined in the 2004 by-law. The complainants argued that self storage uses are not "retail uses"; that a self storage warehouse is an industrial use; and that as an industrial use these facilities should not attract a charge under the by-law. In considering these complaints, Council determined that self storage facilities were not "retail uses" as defined in the City's existing DC by-law and hence should be exempted. Council further instructed staff to refund the DCs assessed and collected from the complainants.

Having regard for Council's previous decision on the treatment of self storage facilities, staff is recommending that self storage uses be deemed industrial uses for the purposes of the proposed DC by-law and be exempted from DCs. This requires an amendment to the definition of "industrial uses" in the proposed DC by-law, as provided in Recommendation 1.

The recommendation in this report also clarifies that the sale of goods and merchandise carried out in a warehouse format is not deemed an industrial use and such uses will be subject to the proposed ground floor only charge under the DC by-law being considered for adoption by Council.

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SIGNATURE

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