

**Consolidated Clause in Policy and Finance Committee Report 5, which was considered by City Council on June 22, 23 and 24, 2004.**

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### **Development Charge By-law**

*City Council on June 22, 23 and 24, 2004, amended this Clause by adding the following:*

*“That:*

- (1) the Commissioner of Economic Development, Culture and Tourism and the Chief Financial Officer and Treasurer, in consultation with the General Manager of Water and Wastewater Services, be requested to undertake a business impact analysis of the impact of water rate increases on large industrial users, prior to the setting of the 2005 water rates;*
- (2) the Commissioner of Economic Development, Culture and Tourism, in consultation with the Commissioner of Urban Development Services and the Chief Administrative Officer, be requested to review and report to the Policy and Finance Committee on the means and methods to achieve the City of Toronto’s strategic goals, as set out in the new Toronto Official Plan and the Economic Development Strategy, through policy changes, statutory authorities and new tools; and further, that the results inform the ongoing discussions with the Province of Ontario and the Federal Government with regard to the ‘New Deal’, the review and potential amendments of the Development Charges Act, and changes to the Municipal Act and the City of Toronto Act;*
- (3) the Chief Financial Officer and Treasurer be requested to report to the Policy and Finance Committee, during the Capital Budget process, on priority projects, by Ward, which would be funded in whole or in part by development charges; and*
- (4) the supplementary report dated June 18, 2004, from the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism, entitled ‘Development Charges for “Big Box” and Other Retail Uses’, be referred to the Planning and Transportation Committee for consideration.”*

*Council also considered additional reports/communications, which are noted at the end of this Clause.*

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**The Policy and Finance Committee recommends:**

- (I) adoption of the report (June 9, 2004) from the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism subject to**

**amending the section in Table 1 dealing with “Grandparenting provisions” by deleting the date “October 31, 2005” and replacing it with “December 31, 2005.”; and**

**(II) adoption of the following motion:**

**“WHEREAS the stakeholder consultations about Development Charges were only about Development Charges and were primarily with the development community;**

**WHEREAS a few large industrial water consumers pay a disproportionate share of water rates;**

**WHEREAS some large industrial users (particularly in the food and beverage sector) pay more for water each year than their municipal property tax bill;**

**WHEREAS the option of raising water rates instead of property taxes must be considered in the context of its impact on regional competitiveness; and**

**WHEREAS the water rate structure is scheduled to be reviewed in the Fall of 2004;**

**THEREFORE BE IT RESOLVED THAT when considering the structure of 2005 water rates, Council also consider the impact of water rate increases on the regional competitiveness for large industrial users.**

Action taken by the Committee:

The Policy and Finance Committee requested the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism to submit a report directly to Council on June 22, 2004, on the feasibility of implementing a differentiated retail charge for oversized retail over a designated “big box” threshold.

**The Policy and Finance Committee submits the report (June 9, 2004) from the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism:**

Purpose:

To present the proposed development charge by-law (attached as Appendix “A”) for Council adoption, having considered input, comments and concerns expressed at the statutory public meeting of May 6, 2004 and throughout the public consultation process.

Financial Implications and Impact Statement :

If Council adopts the proposed development charge by-law attached to this report, it is estimated that the imposition of the proposed charges would yield, on average, annual revenues of \$39 million from residential development and up to \$4 million from non-residential development. These estimated revenues reflect reductions of \$9 million and \$12 million

respectively from the amounts that are estimated to have been generated from the imposition of the maximum charges calculated in the Development Charges Background Study.

A number of transition measures are proposed in the by-law. These measures, which include a one-year phase-in of the increase in charges and a time-limited grandparenting provision, are expected to reduce the estimated revenue in the first year following the adoption of the new by-law.

The revenue that is foregone from the adoption of the reduction in the quantum of the development charge and the adoption of more generous transitional measures, including both the extended phase-in of the charge and grandparenting provisions, will have negative consequential implications on the City's property tax and water rates.

Recommendations:

It is recommended that:

- (1) the development charge by-law, substantially attached as Appendix "A", be adopted and that the City Solicitor in consultation with the Chief Financial Officer and Treasurer be authorized to make such stylistic and minor amendments to the by-law as necessary to give effect to the recommendations contained herein;
- (2) for the purpose of complying with the *Development Charges Act, 1997*, Council adopt the Development Charge Background Study dated April 21, 2004 as amended, including the development-related capital program contained therein;
- (3) Council determine that no further public meeting is necessary in order to deal with the modifications made to the development charge by-law, pursuant to section 12 of the *Development Charges Act, 1997*;
- (4) Council request the Province to make the following changes to the *Development Charges Act, 1997*:
  - (a) the removal of subsection 2(4) of the Act so that no municipal services are excluded from the development charge calculation;
  - (b) the removal of subsection 5(5) and paragraph 8 of subsection 5(1) so that service discounts are eliminated from the development charge calculation; and
  - (c) the amendment of paragraph 4 of subsection 5(1) to permit municipalities to adopt service levels that have actually been attained at any point in the prior ten years; and
- (5) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Executive Summary:

This report recommends the adoption of a development charge by-law, which has been drafted after careful consideration of the input received from various stakeholders throughout the public consultation process. The key issues raised and responded to in the revised by-law are summarized in Table 1 and discussed in the body of the report.

Table 1  
Key Issues and Revisions to the By-law

| Issue                                 | By-law at Public Meeting  | Recommended By-law   |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
|---------------------------------------|---|--|------------------|----------|-----------------|---------|-----------------|---------|----------------------|---------|-----------|---|-------------|------------------|---------|-----------------|---------|-----------------|---------|----------------------|---------|-----------|
| Quantum of the residential charge     | <ul style="list-style-type: none"> <li>- Maximum permissible charge</li> </ul> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Rate</u></th> <th style="text-align: left;"><u>Unit Type</u></th> </tr> </thead> <tbody> <tr> <td>\$11,053</td> <td>Single and Semi</td> </tr> <tr> <td>\$7,169</td> <td>2+ Bedroom Apt.</td> </tr> <tr> <td>\$4,455</td> <td>1 Bedroom/Bach. Apt.</td> </tr> <tr> <td>\$8,797</td> <td>Multiples</td> </tr> </tbody> </table> | <u>Rate</u>  | <u>Unit Type</u> | \$11,053 | Single and Semi | \$7,169 | 2+ Bedroom Apt. | \$4,455 | 1 Bedroom/Bach. Apt. | \$8,797 | Multiples | <ul style="list-style-type: none"> <li>- Reduced charge – Eliminate any increase over the current water and wastewater component of the residential DC (18 percent reduction from calculated DC)</li> </ul> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Rate</u></th> <th style="text-align: left;"><u>Unit Type</u></th> </tr> </thead> <tbody> <tr> <td>\$9,075</td> <td>Single and Semi</td> </tr> <tr> <td>\$5,886</td> <td>2+ Bedroom Apt.</td> </tr> <tr> <td>\$3,658</td> <td>1 Bedroom/Bach. Apt.</td> </tr> <tr> <td>\$7,222</td> <td>Multiples</td> </tr> </tbody> </table> | <u>Rate</u> | <u>Unit Type</u> | \$9,075 | Single and Semi | \$5,886 | 2+ Bedroom Apt. | \$3,658 | 1 Bedroom/Bach. Apt. | \$7,222 | Multiples |
| <u>Rate</u>                           | <u>Unit Type</u>  |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$11,053                              | Single and Semi   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$7,169                               | 2+ Bedroom Apt.   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$4,455                               | 1 Bedroom/Bach. Apt.  |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$8,797                               | Multiples   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| <u>Rate</u>                           | <u>Unit Type</u>  |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$9,075                               | Single and Semi   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$5,886                               | 2+ Bedroom Apt.   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$3,658                               | 1 Bedroom/Bach. Apt.  |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| \$7,222                               | Multiples   |  |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| Quantum of the non-residential charge | <ul style="list-style-type: none"> <li>- Industrial – exempt</li> <li>- All Other Non-residential subject to \$6.77/sq. ft. of gross floor area (gfa)</li> </ul>  | <ul style="list-style-type: none"> <li>- Industrial – exempt</li> <li>- Retail subject to \$6.77/sq. ft. of gfa</li> <li>- All other non-residential – exempt</li> </ul>   |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| Phase-in period                       | <ul style="list-style-type: none"> <li>- Six months</li> <li>- 100 percent of the increase phased-in on Jan. 1, 2005</li> </ul>   | <ul style="list-style-type: none"> <li>- One year</li> <li>- 50 percent of the increase phased-in Jan. 1, 2005</li> <li>- Remainder of the increase phased-in on July 1, 2005</li> </ul>                               |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| Grand-parenting provisions            | <ul style="list-style-type: none"> <li>- None</li> </ul>  | <ul style="list-style-type: none"> <li>- Shielded from any increase in the DC provided that complete building permit application is submitted by December 31, 2004 and permit is issued by October 31, 2005</li> </ul> |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |
| Re-development                        | <ul style="list-style-type: none"> <li>- Credit is restricted by type of use (i.e. credit applicable only where a residential use is converted to another residential</li> </ul>  | <ul style="list-style-type: none"> <li>- Greater clarity to reflect that, in the case of non-exempt non-residential development, a DC will only be assessed on the incremental gfa</li> </ul>                          |                  |          |                 |         |                 |         |                      |         |           |   |             |                  |         |                 |         |                 |         |                      |         |           |

| Issue            | By-law at Public Meeting   | Recommended By-law   |
|------------------|--|--|
|                  | use or a non-residential use is converted to another non-residential use)                | created beyond that which is demolished or converted   |
| Dwelling rooms   | - Dwelling rooms subject to the one bedroom and bachelor apartment charge (\$4,455/unit) | - Dwelling rooms subject to a lower charge based on a person per unit occupancy rate of 1.0 and the 18 percent reduction in the quantum of the residential charge (\$2,345/unit) |
| Other Exemptions |  | - residential sales offices or pavilions and new dwelling units with conditionally approved RRAP financing have been added   |

Background:

At its meeting of March 1 to 3, 2004, Council adopted Clause No. 6 of Report No. 2 of the Policy and Finance Committee, which among other things, recommended that the authority and responsibility for holding the public meeting required pursuant to Section 12 of the Act be delegated to the Policy and Finance Committee, and that such public meeting be held at the Policy and Finance Committee meeting scheduled on May 6, 2004.

As required by Section 12 of the Act, notice of the public meeting was given in advance of the twenty day requirement, and the proposed by-law and Background Study dated April 21, 2004 were made available to the public at least two weeks prior to the public meeting.

At the May 6, 2004 public meeting, sixteen deputants appeared before the Committee and the Committee received a total of seventeen written submissions. After having heard the deputations respecting the proposed by-law, the Policy and Finance Committee:

- (1) concurred with the recommendations contained in the joint report (May 3, 2004) from the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism;
- (2) referred all submissions filed on this issue to the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism, for consideration and report thereon to the June 14, 2004 meeting of the Policy and Finance Committee;
- (3) requested the Chief Financial Officer and Treasurer, to report to the meeting of the Policy and Finance Committee, scheduled to be held on June 14, 2004:
  - (i) in consultation with the Commissioner of Urban Development Services, on an appropriate differential and/or elimination of development charges on types of development that achieve good urban planning objectives; such report to provide

further options for small retail, larger retail including big box, waterfront redevelopment, parking, and connection or vicinity to the subway;

- (ii) on the Development Charge Reserve Funds, such report to include, but not be limited to:
    - (a) the utilization of the Funds since the current by-law was implemented in 1999;
    - (b) the current balance of the Funds;
    - (c) planned utilization in 2005 and subsequent years;
    - (d) forecasted balance as at December 31, 2004; and
    - (e) provincial regulations governing the use of these Funds;
  - (iii) on the following option with respect to non-residential development:
    - (a) exemption for industrial;
    - (b) exemption for office/hotel; and
    - (c) reduce all other non-residential development charges by charging only for roads and transit; and
  - (iv) on exempting rental residential units that are less than 500 square feet and exempting rental residential units that receive any grants or government support for their creation, such as RRAP grants;
- (4) requested the Chief Financial Officer and Treasurer to consult with ratepayer groups to give them an opportunity to review the proposed Development Charges By-law and the submissions of the development industry and report thereon to the Policy and Finance Committee for its meeting scheduled to be held in June, 2004; and that Members of Council be invited to propose ratepayers organizations that should be contacted;
  - (5) requested staff to review the feasibility of a phase-in of development charges if the industry is prepared to accept the higher development charges as a trade off; and
  - (6) requested staff to add "The Toronto Industry Network" to their list of target groups in any future consultations with regard to Development Charges.

#### Comments:

This report addresses the above requests and directions. The report is divided into the following sections:

- (1) Results of Further Public Consultation
- (2) Evaluation of Mitigation Measures for Residential Development Charges
- (3) Evaluation of Mitigation Measures for Non-Residential Development Charges
- (4) Transition Provisions
- (5) Other Policy Issues
- (6) Additional Requests from Committee
- (7) Conclusions

(1) Results of Further Public Consultation:

Following the May 6, 2004 public meeting, staff continued the public consultation process through the following activities:

- (a) four consultation sessions held in late May/early June with residents' organizations;
- (b) continuous correspondence with development industry representatives regarding technical issues with the Background Study calculations and the proposed by-law; and
- (c) ongoing consultation with individual stakeholders on issue specific matters.

Some of the key issues raised during the further consultation were:

- (1) Concern by ratepayer groups over the perceived decline in the quality of the City's infrastructure.
- (2) Concern by ratepayer groups over the financial impact on residential taxpayers as a result of any discount to the maximum calculated residential development charges.
- (3) A preference by the development industry for residential development charge mitigation option No. 2 in Table 2 below, which would result in the greatest discount to the calculated charges.

Appendix B provides a summary of the public consultation as well as staff responses to written submissions from the May 6 public meeting.

It is noted that on May 10, 2004 the IBI Group (IBI), acting on behalf of the Greater Toronto Home Builders Association (GTHBA) and the Urban Development Institute (UDI), responded in writing to the staff report of May 3, 2004 and the April 21, 2004 Background Study. In addition to discussing the proposed options in the staff report and raising general concern with the quantum of the proposed charge, this submission raised 16 specific concerns. These concerns were carefully considered by City staff and the City's consultant and a written response was communicated on May 19, 2004 (see Appendix C).

In most cases, the response indicated a disagreement with IBI's position and reiterated how the Background Study had properly addressed the matter. Several modifications were made, which constitute an Addendum to the Background Study and these are summarized as follows:

- (a) increase the GST reduction by \$2,680,902, for the services noted;
- (b) potentially reduce the police facilities quality level of service measure to \$200/sq.ft. and focus the recovery on the most heavily development-related components of the capital program. This would potentially increase the charge marginally;
- (c) allocate the existing development charge reserve fund balances for "soft services" to the specific benefit to existing development projects and percentages noted, in

- order to direct them to the needs of the pre-2004 development that contributed them;
- (d) increase the benefit to existing development deduction for the 12 watermain projects from 20 percent to 50 percent, decreasing the development charge recoverable cost by \$8,386,988;
  - (e) recalculate the sanitary sewer and watermain development charge component incorporating this change and removing a minimum of 75 percent of the 10-year growth forecast for the Waterfront from the development charge calculation denominator (as such servicing provision was not included for the Waterfront in the capital cost tables). The net effect of this increase in the charge was to cover off the change noted above concerning the benefit to existing development for such works and the increased GST provision.
  - (f) it was noted that the calculation assumptions in the Development Charge Background Study are considered to be valid and defensible. It was also noted that a further modification being considered would involve increasing the residential share of the capital costs, to reflect the fact that not all of the future employment increase is expected to be accommodated in new development. This change would decrease the non-residential cost share and increase the residential charge. At the same time, the non-residential charge would be held constant or increased by moving the calculation denominator closer to the true net increase in non-residential space to be created, rather than using the gross floor area, as was conservatively done in the Background Study.

The conclusion reached by staff and the City's consultant is that any adjustments to the calculation of the charge as noted above will result in no net change to the quantum of the charge.

The fact that the City is giving consideration to discounting its residential charge and eliminating most of its non-residential charge, provides further assurance that the resultant charge is well within the calculation provisions of the Act.

The comments and feedback received throughout the public consultation process were invaluable in the formulation of the final recommended development charge by-law.

(2) Evaluation of Mitigation Measures for Residential Development Charges:

During the public consultation process, representatives of the land development industry have expressed concerns over the impact of imposing the maximum charge for residential development calculated in the Development Charges Background Study. These representatives suggested that the maximum calculated charges would have significant impacts on the rate and affordability of residential development. It was also suggested that given the recent weakness in the multi-residential market, caution should be exercised in raising costs on this part of the residential sector.

Development industry representatives have also suggested that this reduced rate of development would have a negative impact on future growth in the City's property tax revenues. However, it should be noted that new developments also increase the demand for City services and the costs associated therewith.



In the May 3, 2004, report to the Policy and Finance Committee staff presented a number of options for mitigating the impact of the updated residential charges. These options are summarized below in Table 2.

Table 2 - Options for Residential Development Charge Relief

| No. | Description   | % Reduction | Foregone Annual DC Revenue | Water Rate Increase per year for 5 years | Resulting DC's   |
|-----|---|-------------|----------------------------|--|--|
| 1   | No reduction  | 0%          | \$0                        | 0%                                       | Single/semi \$11,053<br>Apt. 2+ bdrm \$ 7,169<br>Apt. bach/1 bdrm \$ 4,455<br>Multiples \$ 8,797 |
| 2   | Eliminate water/waste water DC components             | 33.5%       | \$16 M                     | 1.1%                                     | Single/semi \$ 7,350<br>Apt. 2+ bdrm \$ 4,767<br>Apt. bach/1 bdrm \$ 2,963<br>Multiples \$ 5,850 |
| 3   | Eliminate DC increase in water/waste water components | 18%         | \$8.5 M                    | 0.6%                                     | Single/semi \$ 9,075<br>Apt. 2+ bdrm \$ 5,886<br>Apt. bach/1 bdrm \$ 3,658<br>Multiples \$ 7,222 |
| 4   | Fixed Across-the-Board Reduction                      | 20%         | \$9.5 M                    | See Note 1                               | Single/semi \$8,842<br>Apt. 2+bdrm \$5,735<br>Apt. bach/1 bdrm \$3,564<br>Multiples \$7,038      |

Note 1: This option will impact the tax and water rates. It is estimated that a one time residential tax rate increase of 0.5 percent and water rate increase of 0.6 percent would fund the development charge revenue shortfall under this option.

Following the Policy and Finance Committee meeting of May 6, 2004, staff have consulted with local ratepayer groups with respect to the issue of residential development charges. As previously noted, ratepayer groups have expressed concern over the impact of providing developers with a significant discount on the charge amounts calculated in the Development Charge Background Study. Any revenue shortfall arising from a discount to these charges would have to be offset by an equivalent amount of additional revenues generated through increases in property taxes and/or water rates.

Staff have also received the results of an economic analysis carried out by David M. Nowlan, Professor of Economics Emeritus, at the University of Toronto. Professor Nowlan was retained by Finance Department staff to carry out an analysis of the economic impact that would result from the imposition of the full calculated charges. Professor Nowlan's analysis, attached as Appendix D, resulted in the following conclusions:

- (a) the imposition of the full calculated charges would result in some, generally minor, effects on the amount and type of residential development in the City over the 2004 to 2014 period; and
- (b) the impact of the increased charges would be borne principally by developers initially but would later be capitalized into the value of land being assembled or ripe for development.

According to Professor Nowlan's analysis, only a relatively small portion of the calculated increase would likely be passed on to prospective purchasers. This is primarily because the new housing market in Toronto only forms a very small portion of the overall market of available housing. Developers' ability to raise prices on new housing in Toronto is limited by competition from the large pool of existing housing in Toronto that is being resold as well as from housing available for sale in neighbouring municipalities.

As a result of their inability to recover the increased charge amounts from purchasers, developers already in possession of the land for their residential development projects will likely experience a reduction in the profitability of their projects. This reduction in profitability is projected to be relatively small, as the full calculated development charge increase would still only represent a small portion of overall project costs. Developers may try to offset this reduced profitability through an increased proportion of higher value units in their developments although it is projected that such a shift would be relatively small.

In cases where developers have not already purchased the land, the increased development charges would result in lower values for land that may potentially be assembled for residential development. As a result, some prospective projects that would involve replacing relatively high-value uses for this land may not proceed. This may have some modest impact on the rate of residential intensification.

Overall, the economic analysis suggests that there is little reason to consider a dramatic reduction to the proposed residential development charges.

Staff are, however, of the opinion that some discount should still be provided because of the large increase in the calculated charge relative to the existing level of residential development charges. While staff and the City's consultant believe that the Background Study's calculations are defensible, the Act does allow some leeway for different approaches in arriving at the calculated charges. A discount to the full calculated charges should obviate the need for an appeal since the reduction is, in the opinion of staff and the City's consultant, more than sufficient to cover the quantum of the areas in dispute.

In selecting between Options 3 and 4 for a reduced discount, the principal issue is the way in which the revenue shortfall from the discount is offset through other revenue sources. Both of these options provide essentially the same discount but Option 3 raises the necessary offsetting revenues entirely through a water rate increase whereas Option 4 raises these revenues primarily through an increase in property taxes.

As discussed in the May 3, 2003 staff report, provincial legislation limits the City's ability of spreading a budgetary tax increase equally across the City's entire assessment

base. Therefore, the increase resulting from Option 4 would be borne primarily by residential taxpayers. Under Option 3 however, a water rate increase would be borne by the City's residential as well as industrial, commercial, retail and institutional water consumers.

Therefore, staff is recommending the adoption of Option 3. This option results in an 18 percent reduction from the calculated maximum permissible residential charge set out in the Development Charge Background Study. The foregone revenue from this reduction could then be offset through a small increase in water rates that is spread across the full breadth of the City's water consumers. Assuming the replacement of foregone development charge revenues through the water rates, this option would result in a one-time increase in water rates of 1.7 percent. A similar level of funding could be raised through a nominal 0.6 percent increase over the five-year period of the by-law.

The resulting schedule of residential development charges is provided in Table 3 below. While the recommended residential development charge represents a 108 percent increase from the current rates, the City's residential development charge rate is still only 50 percent of the average residential development charge levied in the ten largest GTA municipalities, as shown in Appendix E. The recommended residential development charge will result in approximately \$39 million in annual residential development charge revenue based on the forecasts provided in the Development Charge Background Study and not including the impact of transition provisions.

Table 3 – Residential Development Charge  
Eliminate Increase in Water and Wastewater Component

| Unit Type                          | Current DC | Calculated DC | Proposed DC |
|------------------------------------|------------|---------------|-------------|
| Single and semi detached           | \$4,370    | \$11,053      | \$9,075     |
| Apartment – 2 Bedroom and Larger   | \$2,816    | \$7,169       | \$5,886     |
| Apartment – 1 Bedroom and Bachelor | \$1,802    | \$4,455       | \$3,658     |
| Multiple                           | \$3,544    | \$8,797       | \$7,222     |
| Dwelling Rooms                     | \$nil      | \$2,856       | \$2,345     |

(3) Evaluation of Mitigation Measures for Non-residential Development Charges:

The May 3, 2004 staff report also highlighted the negative impacts that the adoption of the maximum calculated charges may have on the achievement of the City's Official Plan objectives. Three options for mitigating the impact of the calculated charges were presented in that report. In addition, a fourth hybrid option could be constructed, which would combine Option 2 and Option 3. These four options are summarized in Table 4. It is noted that the estimated foregone development charge revenue shown in Table 4 assumes that the imposition of a development charge will have little if any impact on the rate of development.

Table 4 - Options for Non-Residential Development Charge Relief

| Option No. | Description   | % Reduction           | Estimated Foregone Annual DC Revenue | Resulting Charge (per sq. ft.) |
|------------|---|-----------------------|--------------------------------------|--------------------------------|
| 1          | Continue exemption for all non-res (Industrial / Commercial / Institutional)      | 100%                  | \$16 M                               | \$0                            |
| 2          | Industrial – Exempt<br>All Other – Roads/transit DC only                          | 100%<br>48.6%         | \$10 M                               | \$0<br>\$3.48                  |
| 3          | Industrial – Exempt<br>Office/Hotel – Exempt<br>All Other – Full charge           | 100%<br>100%<br>0%    | \$8 M                                | \$0<br>\$0<br>\$6.77           |
| 4          | Industrial – Exempt<br>Office/Hotel – Exempt<br>All Other – Roads/transit DC only | 100%<br>100%<br>48.6% | \$12 M                               | \$0<br>\$0<br>\$3.48           |

(3.1) Industrial Development:

Each of the options include a full exemption for industrial development. In the May 3 report, staff recommended an exemption for industrial development based on the following reasons:

- (a) industrial firms are footloose, their markets are often province-wide or even larger, and they could choose to locate anywhere in the GTA or even beyond;
- (b) development charges represent a higher proportion of development costs for industrial uses compared to most commercial developments;
- (c) industrial developments have large multiplier effects, as firms choose to locate in close proximity to their suppliers and customers, and the incomes paid to industrial employees are re-circulated in the local economy;
- (d) industrial jobs are high value-added and are relatively well paid “good jobs”; and
- (e) industrial developments generally generate net fiscal benefits for the City.

(3.2) Office/Hotel Development:

Staff also recommended that some form of relief from the full calculated charges be provided to hotel and office development. While development charges form a lower proportion of the total development costs for hotel and office development, the reasons for exempting hotel and office development are similar to those

advanced for an exemption for industrial development. The options above provide for either a full exemption for office/hotel development or a partial exemption under which only the roads/transit portion of the charge is applied.

Professor Nowlan's analysis indicates that imposition of the full calculated development charges will have an impact on commercial development. Reductions in the value of land assembled for commercial development, resulting from the imposition of the full charges, may lead to the continuation of the current land use at many potential redevelopment locations. It may also result in residential developments occurring at these locations instead of commercial developments.

Given the already relatively stagnant state of office/hotel development in Toronto, this suggests that substantial mitigation measures are necessary. Therefore, staff are recommending a complete development charge exemption for office/hotel development at this time.

(3.3) Other Non-Residential Development:

The remaining issue with respect to non-residential mitigation measures is whether to apply a blanket exemption to all non-residential development or whether to apply a narrowly focused charge to retail development.

As discussed in the May 3 staff report, there are administrative benefits to continuing the exemption on all non-residential development. If various kinds of non-residential development are levied different charges, Buildings staff will have to classify developments and will have to be able to clearly articulate the reasons for their decisions. This classification must be carried out before the building is constructed and often before the tenants have been identified. If only industrial and office uses are exempted, then all other commercial uses will have an incentive to present themselves as industrial/office uses. This problem can be avoided if a blanket exemption is continued.

Another potential benefit of continuing the complete exemption is the resulting clarity of "messaging" in terms of the City's efforts to promote economic development.

No form of mitigation was recommended for retail development in the May 3 report. Retail uses and personal services establishments are the least footloose of all commercial and industrial uses and, on average, are subject to effective tax rates that are significantly lower than other commercial uses. The number of applications for retail development in the City over the last several years also points to the conclusion that there is significant demand for retail space in the City and that this sector could absorb the proposed charges.

It is recommended that the full charge be applied to all retail development. While a charge on retail development will not result in a large amount of revenue, it will still serve to avoid some further increase in the amount of development-related

costs that will have to be raised through other revenues. The charge on retail will also act as a small disincentive towards the conversion of vacant industrial lands into “big-box” retail developments.

Staff of the Buildings Division advised that it will be administratively less complex to define retail uses and apply a targeted charge to these uses rather than to define office/hotel uses and provide them with a targeted exemption. A targeted retail charge will result in all other non-retail uses, including institutional, being exempted. This results in recommendations that are slightly different from Option 3 shown in Table 4. The recommended schedule of non-residential charges is summarized in Table 5.

Table 5  
Schedule of Non-residential Development Charges\*

| Type                    | Charge per sq. ft. |
|-------------------------|--------------------|
| Industrial              | \$nil              |
| Commercial – Retail     | \$6.77             |
| Commercial – Non-retail | \$nil              |
| Institutional           | \$nil              |

\* currently all non-residential development is exempt from the payment of development charges. The calculated maximum development charge that may be imposed on non-residential development is \$6.77 per sq. ft. with the roads and transit component being \$3.48 per sq. ft.

(4) Transition Provisions:

There are two basic forms of transition measures that could be considered in the development charge by-law: phase-in provisions and grandparenting provisions. Phase-in provisions involve phasing in the charges over a specified time period. Grandparenting provisions involve the provision of development charge relief for projects in the development application pipeline that have achieved a certain status.

The development industry representatives have been asked for their comments on appropriate transitional provisions on numerous occasions. They have responded that they wish to first know the actual recommended development charge levels. Staff acknowledge that higher development charge increases may warrant a longer phase-in period than lower development charge increases. A longer phase-in period means higher foregone development charge revenue, however, which must be replaced through the tax base and/or user rates.

During the public consultation process, developers raised concerns that development projects that are far along in the development process would already have formulated business plans and made financial commitments on the basis of existing and foreseeable conditions, including municipal financial requirements. The introduction of an increase in the charge, which had not been contemplated in their financial pro-formas will have a

financial implication on some projects. On the other hand, ratepayer organizations and residents groups have argued that there should be no negative economic impact to the existing residential taxpayers as a result of new development or intensification. In addition, since development charges only fund approximately 25 percent of the growth-related capital program, 75 percent of the program is already borne by existing taxpayers. Accordingly, they suggest that the development charge by-law should be implemented as fully and as soon as possible.

While there are financial implications due to foregone development charge revenue, staff recognize that some transition provision is needed to ensure an orderly transition to the new development charge regime. Accordingly, the following provisions have been included in the by-law:

- (a) any person who submits a complete building permit application by December 31, 2004 and is issued a building permit by October 31, 2005, shall pay the development charge rates that are currently in effect; and
- (b) a one year phase-in of the development charge is recommended as set out in Tables 6A and 6B. The by-law provides for a phase-in of 50 percent of the increase on January 1, 2005, and the remaining 50 percent of the increase on July 1, 2005.

Table 6A  
Schedule of Proposed Residential Development Charge  
and Proposed Phase-in Provisions

| <i>Column</i>                           | A                           | B                  | C                         | D                        | E        |
|---|-----------------------------|--------------------|---------------------------|--------------------------|----------|
|   | Current<br>Rate<br>Jan 1/04 | Calculated<br>Rate | Jul 28/04 to<br>Dec 31/04 | Jan 1/05 to<br>Jun 30/05 | Jul 1/05 |
| <b>Residential (per unit)</b>           |                             |                    |                           |                          |          |
| Single and semi detached                | \$ 4,370                    | \$ 11,053          | \$ 4,370                  | \$ 6,723                 | \$ 9,075 |
| Apartment 2 bedroom and larger          | \$ 2,816                    | \$ 7,169           | \$ 2,816                  | \$ 4,351                 | \$ 5,886 |
| Apartment 1 bedroom and bach.           | \$ 1,802                    | \$ 4,455           | \$ 1,802                  | \$ 2,730                 | \$ 3,658 |
| Multiples                               | \$ 3,544                    | \$ 8,797           | \$ 3,544                  | \$ 5,383                 | \$ 7,222 |
| Dwelling rooms                          | \$ -                        | \$ 2,856           | \$ -                      | \$ 1,172                 | \$ 2,345 |
| Rate as a percentage of calculated      | 39.5%                       | 100.0%             | 39.5%                     | 60.8%                    | 82.1%    |
| <b>Period over period change</b>        |                             |                    |                           |                          |          |
| Absolute increase (per single detached) | \$ -                        |                    | \$ -                      | \$ 2,353                 | \$ 2,352 |
| Absolute increase (per 2 bedroom apt)   | \$ -                        |                    | \$ -                      | \$ 1,535                 | \$ 1,535 |
| Absolute increase (per 1 bedroom apt)   | \$ -                        |                    | \$ -                      | \$ 928                   | \$ 928   |
| Absolute increase (per multiple)        | \$ -                        |                    | \$ -                      | \$ 1,839                 | \$ 1,839 |

**Table 6B**  
**Schedule of Proposed Non-residential Development Charge**  
**and Proposed Phase-in Provisions**

| Column                                      | A                           | B                  | C                         | D                        | E        |
|---|-----------------------------|--------------------|---------------------------|--------------------------|----------|
|   | Current<br>Rate<br>Jan 1/04 | Calculated<br>Rate | Jul 28/04 to<br>Dec 31/04 | Jan 1/05 to<br>Jun 30/05 | Jul 1/05 |
| <u>Non-Residential (per sq. ft.)</u>        |                             |                    |                           |                          |          |
| Industrial                                  | \$ -                        | \$ 6.77            | \$ -                      | \$ -                     | \$ -     |
| Commercial (non-retail)                     | \$ -                        | \$ 6.77            | \$ -                      | \$ -                     | \$ -     |
| Retail (as defined in the by-law)           | \$ -                        | \$ 6.77            | \$ -                      | \$ 3.39                  | \$ 6.77  |
| Institutional                               | \$ -                        | \$ 6.77            | \$ -                      | \$ -                     | \$ -     |
| Rate as a percentage of calculated (retail) | 0.0%                        | 100.0%             | 0.0%                      | 50.1%                    | 100.0%   |
| Period over period change                   |                             |                    |                           |                          |          |
| Absolute increase (retail)                  | \$ -                        |                    | \$ -                      | \$ 3.39                  | \$ 3.38  |

(5.0) Other Policy Issues:

Over the course of the public consultation a number of other development policy issues have been raised. Staff have reviewed these issues and provide the following commentary:

(5.1) Non-profit affordable housing:

An exemption for the provision of non-profit affordable housing, which is contained in the City's current by-law, will be continued in the new by-law. In addition, the Municipal Housing Facilities By-law permits the exemption from development charges of for-profit housing projects providing affordable housing, and in which the City is a partner, through individual By-laws and agreements on a case-by-case basis.

A suggestion has been made to institute a lesser development charge for very small apartment units on the grounds that the development charge for bachelor/1 bedroom apartments will adversely affect affordability. There is no perfect solution available to allow the development charge by-law to adequately address every conceivable situation. If the Background Study had been carried out using residential gross floor area as the basis for calculating the development charge, some problems, like this one, would be addressed but still others would be created.

The number of bedrooms is considered to be the best means of estimating the persons per unit and thus calculating the demands of the residential population



inhabiting new growth on servicing infrastructure. The size of the unit in terms of gross floor area cannot be taken into account in any general way.

The one exception made in the development charge by-law is to treat small townhouse units that are less than 55 m<sup>2</sup> in gross floor area as apartment units for the purpose of the development charge. This exception had to do with estimates of persons per household in small (likely stacked) townhouse units, rather than that with the issue of affordability. It does have the added benefit, however, of mitigating the impact of the development charge on the affordability of small townhouse units.

(5.2) Brownfield redevelopment:

The rationale set out in the May staff report respecting an exemption to land development projects for employment uses that involve soil remediation remains valid. Legal staff advise that the Act permits exemptions for "types of development" and that an exemption for the redevelopment of contaminated lands for employment uses would not constitute a type of development. However, most of the new employment uses on contaminated lands would be industrial in nature and these are covered by a blanket exemption in any event and a development charges exemption for the redevelopment of contaminated lands would be redundant. If the precise geographic boundaries of all contaminated areas were known, it might be possible to delineate such areas in the development charge by-law and to provide some form of development charge relief to employment uses that develop within those delineated areas. However, the City does not have the ability to accurately delineate contaminated areas, so such a course of action is not proposed at this time.

(5.3) Development Charge for Dwelling Rooms:

In the current, in-force development charge by-law, dwelling rooms are exempt. This was done primarily to encourage the provision of affordable housing in the form of rooming houses. In the draft by-law that was considered at the public meeting, revisions were incorporated to explicitly exempt rooming houses, and the larger exemption for dwelling rooms was deleted. There are other forms of housing involving dwelling rooms, such as seniors' residences and nursing homes, some of which can be high end rental or ownership accommodation, or which may receive senior government funding that might include the payment of municipal development charges. The draft by-law specified that dwelling rooms would attract the same development charge as bachelor/one bedroom units.

However, in acknowledgement of the fact that the occupancy ratio of dwelling rooms would likely be less than that of bachelor/one bedroom units, a distinct, lower development charge (\$2,345) for dwelling rooms is proposed in the development charge by-law attached to this report. This charge includes the same, approximately 18 percent reduction in the calculated charge as the other categories of residential dwelling units. The City's consultant has advised that the calculated charge for dwelling rooms with an occupancy rate deemed to be

1.0 persons per unit is \$2,856. The dwelling room charge is 64% of the bachelor/one bedroom charge.

(5.4) Amendments to the *Development Charges Act*:

In preparing the proposed by-law staff have attempted to achieve the City's principal objectives to the extent possible within the constraints of the existing Act.

One of the City's principal objectives is to ensure that the costs of growth-related infrastructure are primarily borne by the beneficiaries of such infrastructure. Existing taxpayers should not be required to pay for a substantial portion of the costs of growth-related infrastructure.

However, a number of provisions within the Act inhibit the achievement of this objective. Staff are therefore recommending that Council request changes to the Act in the following areas.

(5.4.1) Excluded Services:

The 1997 Act prohibits development charges of any kind for a number of services. For example, the Act prohibits development charges for cultural facilities.

A strong argument exists that in an urban centre like Toronto, growth does create the need for cultural facilities, in the same way that other soft services such as recreation facilities and libraries are needed. City Council, through the adoption of the Culture Plan in 2003, has made culture a key component of the future development of Toronto as a creative city. The Culture Plan aims to enhance Toronto's place as an international cultural centre and increase the impact of culture on the economic and social life of the city. The future intensification of Toronto's neighbourhoods will not only be able to support further cultural facilities; future residents will need such facilities to contribute fully to the creative city. It would be reasonable to have these facilities funded or partially funded by development charges through the amendment of the Act.

Other services for which a development charge cannot be imposed by legislation include solid waste, hospitals, administrative headquarters, computer equipment and police vehicles.

It is recommended that City Council advocate changes to the Act so that no municipal services are excluded from the development charge calculation (i.e. remove Section 2(4) of the Act).

(5.4.2) Restricted Recovery of Costs for Services That Are Included:

Three measures in the Act result in existing taxpayers funding a portion of the growth-related costs even for services that are included in the development charge calculation:

- (i) a 10 percent Service Discount;
- (ii) average Service Level Cost Recovery Limit; and
- (iii) restricted Recovery of Costs for Excess Capacity.

Under the *1997 Act*, municipalities are required to finance 10 percent of the growth-related costs of providing all services except water, sewer, stormwater management, police, fire and roads. It is recommended that Council request that these service discounts be removed from the Act.

The 1997 Act only permits the charge calculation to recover costs based on the average level of service over the prior 10 years. The use of averages often suppresses service levels that can be charged, which transfers costs to existing taxpayers. It is recommended that Council request that the Act be amended to allow municipalities to adopt service levels that have actually been attained at any point during the prior ten years.

(6) Additional Requests from Council:

(6.1) Development Charge Policy that Achieve Planning Objectives:

In the 2004 Development Charge Background Study, the City's consultant reviewed the literature (reports, studies, articles, etc.) from elsewhere, relating to, among other things, how effective a tool development charges are in implementing a municipality's planning objectives. The findings were summarized in the Background Study, and the main conclusions were as follows:

- (a) use of development charge reductions or exemptions to encourage planning objectives, such as affordable housing, downtown revitalization, and brownfield industrial development had been considered (and in a few cases, implemented) by some urban municipalities with older core areas;
- (b) development charges are a "blunt instrument" for achieving land use objectives; however, they should, at least, be "neutral" in their impact, and not hinder the achievement of such objectives;
- (c) with respect to downtown revitalization, development charges alone are unlikely to be sufficient to stimulate construction or redevelopment activity, although they may play a role as part of an overall incentive package; and
- (d) for a marginally viable development, even a small impact can make the difference between an acceptable financial return and a development not proceeding.

As was concluded in the May 3, 2004, staff report, development charges are only one of many factors influencing land development decisions; larger market forces have far greater impact on the pace and location of development. However, where the market, or a sub-market, is not performing well, development charge relief may be warranted to avoid exacerbating already challenging market conditions. As well, the impact of increasing development charges is likely to be more significant where the charge represents a greater proportion of development costs, such as in industrial development or affordable housing. It is for these reasons that exemptions for industrial and non-profit affordable housing have previously been recommended by staff.

(6.1.1) Factors to Consider in Assessing Additional Development Charge Relief:

In deciding whether exemptions or reductions related to planning objectives should be implemented, the following considerations are relevant:

- (a) the 'quantum' of the proposed charge, including whether the charge is to be generally reduced or phased in;
- (b) how the land use development market is performing with respect to the achievement of the particular objective;
- (c) whether the proposed development charge relief is one component of a larger program or suite of tools to achieve the planning objective since on its own, development charge relief is unlikely to provide an adequate incentive for development;
- (d) the cost to existing taxpayers and/or water ratepayers of any development charge relief, and the necessary balancing of achieving planning objectives with increased taxes or rates;
- (e) how well the development charge relief can be targeted exclusively to achieving the planning objective without unintended or undesirable consequences;
- (f) limitations of the development charge legislation; and
- (g) administrative complexity and/or ability to secure the actual targeted objective.

Staff has considered these factors in assessing the potential for additional relief from development charges to achieve specific planning objectives.

(6.1.2) Development Charge Relief for At-grade Retail and Service Uses in Multi-Storey Developments:

The development industry, in its response to the City, has identified a market performance problem with respect to the sale or leasing of at-grade retail and service use space in multi-storey mixed use or office developments. In some such developments, the City has required the inclusion of such at-grade space in the zoning by-law. The development industry feels particularly aggrieved where the space has been required by the City and then sits vacant for long periods of time. They assert that the

inequitable tax structure with respect to retail uses is a primary reason that this space remains vacant.

While no actual statistics are available to confirm the difficulties in the sale or lease of at-grade retail and service use space, anecdotal observations do confirm that in some areas of the City vacancies in new mixed use developments do exist. While it is likely that the greatest deterrent in these circumstances is the level of property taxes as it relates to projected market returns, staff has considered, but rejected, as discussed below, development charge relief to support the objective of creating shopping streets along major roads.

Street-related retail and service uses are desirable in many multi-storey developments on shopping streets to help animate and revitalize the street and create a safer, more diverse, attractive and interesting pedestrian environment. The presence of such retail and service uses also improves the quality of the residential and/or work environment in adjacent neighbourhoods.

Staff has considered the possibility of development charge relief in order not to exacerbate market performance problems where in fact such problems may exist. The real reasons for any poor market performance appear to be the inequitable property tax structure and, in some locations, lack of effective market demand. Unfortunately, a development charge exemption will not alter this reality because the development charges are not a significant factor in the cost of constructing the retail space. Citywide, a market performance problem for retail and service use space in general has not been identified.

The City does not require the provision of at-grade retail and service uses in many locations, and most locations where it does require such space in redevelopment projects are major shopping streets where the market is performing well. Thus a primary difficulty exists in identifying those locations where development charge relief is even worthy of consideration. There are some locations where at-grade retail space is not counted in the total building density, and thus the City is already providing an incentive for the provision of this space in those locations.

Furthermore, the Act is too “blunt” an instrument to allow the City to effectively target street-related, at-grade retail space. Only retail uses with direct street access should even be considered for development charge relief, because those with access from interior concourses or from vehicle parking lots are not effectively contributing to the objective of animating the shopping streets. At the building permit stage, many applications for retail and service use space do not partition that space into individual stores. That occurs later in the process. Although in many applications, the overall retail space may have direct street access indicated, many individual stores will have access from interior concourses or exterior side

doors, and that is often unknown at the building permit application stage. Even those stores fronting on the street can have their primary access from an internal concourse and often lock the exterior doors. It is often not possible at the building permit stage to know how much of the at-grade retail space will have direct access to the street.

Given the difficulties in implementation and in the effective targeting of development charge relief, staff cannot recommend development charge relief for at-grade, street related retail and service uses.

#### (6.1.3) Development Charge Considerations for Larger Retail Uses:

As discussed in the May 3, 2004, report, staff considers that retail uses in general are unlikely to be deterred by development charges. Development charges represent a relatively low proportion of the development costs for retail space. Staff have concluded that it would not be appropriate to provide special relief for retail uses in general.

Very large, big box retail uses can have very large market areas that transcend municipal boundaries and these stores thus have a much greater geographic area within which to locate. They are thus more “footloose” than smaller retail stores in the sense that they can often choose among two or more municipalities in which to locate in order to serve similar geographic markets. However, the municipal infrastructure costs of servicing big box uses can be relatively high. Traffic impacts in particular can be costly to mitigate, and big box retail uses are not generally transit or pedestrian friendly.

While these arguments might suggest a differentiation in development charge relief between smaller retail uses and big box retail uses, with the big box uses receiving little or no such development charge relief, in practice this is very difficult to effectively implement. A basic difficulty is in determining a size threshold for big box uses that will be fair. Another difficulty is in distinguishing between what people traditionally think of as big box retail uses and other large retail uses such as grocery stores or department stores, especially at the building permit stage of approvals.

In conclusion, it is not considered necessary or appropriate to offer development charge relief for retail uses in general, and the problems inherent in distinguishing big box retail uses from other retail uses do not make it practical to so differentiate.

#### (6.1.4) Development Charge Relief Options for Waterfront Development:

Much of the undeveloped, or under-developed, portions of the Central Waterfront have very little existing infrastructure to support the intended future uses. Consequently, the costs of providing infrastructure for new

growth in the Waterfront are expected to be substantial and certainly higher than the incremental cost of expanding infrastructure to accommodate growth in the rest of the City in general. The 2004 Development Charge Background Study included the anticipated Waterfront population and employment growth in the growth forecasts for the City-wide charge, but not a significant majority of the infrastructure costs related to that new growth. This is primarily because the new infrastructure costs related to Waterfront Revitalization are not yet known. These costs will be developed as part of the precinct planning process that is currently underway and will be the subject of cost sharing agreements between the three government partners. Following the negotiation of these agreements, the City's costs will be confirmed.

It is staff's intent that once the servicing costs are better known and the cost-sharing agreements are in place, a Development Charge Background Study for the Waterfront will be completed. This is expected to occur in 2005. A development charge by-law specific to the Waterfront can then be considered by Council, and if adopted, can be layered on top of the then existing, city-wide development charges. The calculated development charges in the Waterfront are anticipated to be higher than the calculated development charges for the City as a whole.

The Waterfront is precisely the kind of area for which the Act was designed. Moreover, the financing of the City's contribution to the costs of the developing the Waterfront has always anticipated the use of development charges. Absent those revenues, the City's contribution would have to come from the existing tax base. As well, although development is not proceeding quickly on the Waterfront at this time, due to other factors, there is no doubt that the market for Waterfront development sites will be strong once zoning regulations and infrastructure are in place.

The Waterfront is currently covered by the existing city-wide development charge by-law, and should continue to be covered by the new by-law. If Council determines that Waterfront development deserves special development charge relief (beyond the forms of relief intended for the city-wide by-law), this is a matter which could be considered in the next phase of the development charge study, when an area-specific charge is to be considered. It is at that time that the issue of a higher charge for the Waterfront will be at issue. At that time Council could consider one of several options, based on better information regarding the additional costs of servicing development, the calculated charge that could flow from that analysis and the implications for the tax base if the area specific development charge is not fully exploited.

At this stage staff advocate no additional relief beyond that recommended in this report for the Waterfront. The municipal share of costs for the Front Street extension, Union Station platform improvements, and flood

protection measures in the West Don Lands, are included in the 2004 Background Study and consequently covered by the new city-wide development charge by-law. Depending on the size of the future calculated area-specific development charge for the Waterfront and any transition provisions under that by-law, the additional cost could potentially affect the rate of development in the Waterfront. It is at that stage, rather than now, that Council could further consider the question of relief. Any relief for area-specific Waterfront development charges would have to be off-set through increases in the city-wide property tax base and/or the city-wide water rates.

(6.1.5) Development Charge Relief Options for Developments in Proximity to Subway Stations:

As staff has previously stated, the performance of the land development market is far more significant with respect to achieving planning objectives than are development charges, which are only one factor among many influencing the market. Development charge relief can be provided in order not to exacerbate a situation where the market is not responding as desired.

While the Official Plan supports the planning objective of intensifying around subway stations in order to make the most efficient use of the transit infrastructure and help reduce vehicle use in the City, in general the development market would appear to be working adequately to achieve this objective. The development activity along the Sheppard East subway is a good example of a strong market demand for these locations.

There would not appear to be a need to provide development charge relief to further the objective of encouraging development near subway stations. Developments receive a significant benefit, in marketing and in value, from the proximity of a subway station, and that in and of itself is considered a significant incentive.

As well, one of the arguments for reducing the development charge for developments near subway stations is that new development in these locations will not place significant new demand on roads, since car ownership and usage tends to be substantially lower in development within walking distance of subway stations. While empirical evidence supports this observation, developments near subway stations are more likely to use the subway system than development more remote from it. There is no quantitative analysis demonstrating the relative demands on roads versus transit based on proximity to subway stations (the Background Study was not undertaken on this basis), it is unlikely, in the final analysis that the charges would vary significantly.

There are also serious issues of equity and fairness in this approach. To implement such relief, the best way to do so would be to delineate



properties that lie within a specified radius of the subway station. This would entail appending maps to the development charges by-law to avoid any disputes over whether or not a site was in or outside the prescribed area, and consequently whether relief was to be granted or not. The difficulty with this approach, however, is that whenever a line is drawn that demarcates where a charge will apply and where it will not, issues of fairness arise. Why is one property that is within, say, 300m of the entrance to a subway station more 'deserving' than one which is, say, 400m from the station entrance? To guard against this, a more complex system of radii and relief zones could be, in theory, created. Such an approach, however, would be complex to administer, and would likely generate controversy and appeals of the by-law to the Ontario Municipal Board, especially by property owners that lie just outside the delineated boundaries of the development charge relief areas.

(6.1.6) Development Charge Relief Options for Development in the Avenues Official Plan Designations:

The May 3, 2004, report to Policy and Finance Committee on development charges noted that the land development market was not uniformly strong among the various Avenues shown in the Official Plan. Development charge relief for Avenues development is thus considered worthy of consideration, since the Avenues are a key location for directing new growth in the City in order to achieve the planning objective of intensification.

An implementation issue with providing development charge relief to Avenues development is in delineating the precise boundaries of such areas. The Official Plan designations at the scale of the land use maps do not show precise boundaries for the Avenues designations. The zoning by-law is amended by Council only after the respective Avenues Study has been completed. It is the Avenues Study and resulting zoning implementation that determines the precise boundary of each Avenue segment. To date, seven Avenues Studies have either been completed or are in process, representing only a small proportion of the approximately 160 km of Avenues in the City. Of these seven, the zoning for only three is in force. Because the zoning as adopted by Council in response to an Avenue Study can be disputed at the Ontario Municipal Board, it is not until the zoning is actually in place that the precise boundaries of the respective Avenues are established and could be included in the development charge by-law. Therefore, for the 2004 development charge by-law, only three Avenues locations could be precisely delineated in order to even be considered for development charge relief.

Because the Act requires a Background Study to be completed prior to any amendment to the by-law, it would not appear practical to add new Avenues designations to the by-law in an incremental manner as the respective studies are completed and the zoning is implemented.

Additional Avenues areas could only be added each time a new Background Study is carried out, which is required at least every 5 years. This situation leads to potential disadvantages of providing development charge relief in the proposed development charge by-law for only 3 Avenue segments. Firstly, those 3 Avenue segments, if exempted, would have a monopoly on exemptions for Avenues for the five-year duration of the development charge by-law. Secondly, development in the other Avenues where studies are ongoing or imminent could actually be delayed, contrary to the intent of the development charge relief, in order to wait until anticipated development charge relief is provided at the next adoption of a new development charge by-law. This program of incrementally adding Avenue segments to the exemption list every five years could thus cause market distortions in development within Avenues. For this reason, staff is not recommending that the 3 Avenue segments with in-force zoning be exempted from development charges.

The Province has signaled that it will be considering changes to the Act, and there may be an opportunity in the future to suggest legislative changes that would provide municipalities with greater flexibility to address development charge relief as the need arises. If such changes were forthcoming, it would be possible to revisit this issue.

#### (6.1.7) Parking:

Policy and Finance Committee requested that this report address the issue of development charge relief in relation to parking. Staff have considered this matter, and are not suggesting any changes to the development charge by-law as a result.

Parking per se does not by itself create demands on the infrastructure for new growth funded by development charges. The demands on the infrastructure are created by the businesses, activities and residences for which the parking is provided. The related infrastructure costs resulting from such demands have been addressed through the calculated development charges in the Background Study for those other uses. In that sense, vehicle parking, even as a principal use, is “accessory” to the uses for which it is provided and which, in turn, place demands on the City’s infrastructure. If the proportion of the travelling public using public transit rather than private automobiles were to increase, road infrastructure costs might decrease, but transit infrastructure costs might increase, and it is not the parking to which such infrastructure costs are attributable in any event. There are certainly other benefits of increasing transit usage, but these are not relevant to the discussion of imposing development charges on parking uses.

Although the imposition of development charges with respect to parking might be seen as a means of discouraging such parking, staff does not consider that to be a justified use of development charges in light of the

discussion above. It may be a valid planning objective, for example, to discourage above-grade parking, for primarily urban design reasons, but the development charge by-law is not the appropriate vehicle by which to achieve such an objective. There are arguments for and against the reduction of parking in general as a means of achieving good planning objectives, but even if Council were to support the objective of reducing parking, the development charge by-law is not the appropriate vehicle for achieving it. The most effective way to reduce parking and encourage transit use is through the zoning by-law, by establishing maximum as well as minimum parking standards.

(6.2) Development Charge Reserve Funds

The amalgamated City's first city-wide development charges by-law, adopted in July 1999, came into effect on September 1, 1999. That by-law replaced the former development charges by-laws of the pre-amalgamation municipalities, which were repealed on August 31, 1999.

As shown in the Table 7, the City received a total of \$78 million in development charge revenue and funded \$35 million of growth-related capital infrastructure between 1999 and 2003.

Table 7  
Development Charge Reserve  
Fund Activity (1999-2004)

| Year  | Opening Balance | DC Proceeds | Interest | Expenditures | Closing Balance |
|-------|-----------------|-------------|----------|--------------|-----------------|
| 1999  | 57.9            | 5.6         | 4.7      | 8.2          | 60.0            |
| 2000  | 60.0            | 10.4        | 3.6      | 7.9          | 66.2            |
| 2001  | 66.2            | 15.8        | 3.8      | 4.0          | 82.8            |
| 2002  | 82.8            | 23.0        | 4.8      | 5.6          | 105.0           |
| 2003  | 105.0           | 23.3        | 6.2      | 10.0         | 124.4           |
| 2004* | 124.4           | 23.0        | 5.0      | 24.0         | 128.4           |

\* *forecast*

As of April 30, 2004, the City's development charges reserve fund balance totalled \$133 million, which includes approximately \$6.8 million in development charges proceeds and \$1.6 million in interest during the first four months of the year. In 2004, approximately \$24 million in development charges funding was approved to fund eligible growth-related capital projects. The forecasted 2004 year-end development charge reserve fund balance is approximately \$128 million.

With respect to planned utilization in 2005 and subsequent years, approval for development charges spending is completed annually as part of the City's capital and operating budget process. Departments utilize development charge reserve

funds to the greatest extent possible, subject to their capital funding needs and the specifications within the Act. Over the next five years, it is expected that the existing development charge reserve funds will be fully utilized.

The Act provides that separate reserve funds must be established for each service to which the development charge by-law relates. Development charges collected for each service are directed to the reserve funds to which the charge relates. With respect to the City's current development charge by-law, development charge reserve funds have been established for the following services: roads, sanitary sewerage, water works, fire, library, parks and recreation, transit and development-related studies. Additional development charge reserve funds will be established for the new services in the new by-law, which includes childcare, emergency shelters, emergency medical services, urban development services, police, and stormwater management. The development charge reserve funds can only be utilized for funding eligible growth-related capital projects.

In general, the capital projects for which development charges funding will be utilized are identified in the Development Charge Background Study. Over the course of the by-law (5 years), it is reasonable to expect some modifications to the capital projects set out in the Background Study. The Act, however, is very restrictive on the utilization of the development charge reserve funds, and all development charges financing must meet the stringent criteria within the legislation.

It is important to note that the reserve fund balances for transit, roads, Yonge Centre, sanitary sewer and water, totalling approximately \$89 million, have been applied against future spending requirements. In other words, an adjustment to reduce the development charges otherwise recoverable for these services was made, since these services are geared to funding a large group of development-related works that are being implemented over the long term.

(6.3) Exemption for Small Rental Residential Units and Units that Receive Government Support:

Staff of Shelter, Housing and Support Division, Community and Neighbourhood Services were consulted in preparing this section of the report.

The development charge by-law already contains exemptions for non-profit housing. For-profit housing projects that are part of the Let's Build program and secured in an agreement under the City's Municipal Housing Facilities By-law can receive development charge relief on a case-by-case basis. In addition, the development charge by-law is being further amended to provide for a lower development charge for a new residential category of "dwelling rooms", in addition to an exemption for rooming houses. Furthermore, small townhouse units of 55 m<sup>2</sup> or less are treated as apartment units for the purpose of the development charge by-law, thus attracting a lower development charge than larger townhouse units.

Staff is of the opinion that only those programs of government funding for housing that are administered by the City, i.e. SCPI and RRAP, should be considered for development charge relief. The City thus has control over the program funding and any related conditions. There are other government housing programs in which the City is not involved or does not set or administer the rules. For example, the Ontario Ministry of Health administers a housing program independently of the City.

Supporting Communities Partnership Initiative (SCPI) funds for housing are administered through the City of Toronto's Let's Build program, which in turn makes use of the Municipal Housing Facilities By-law and can exempt or reduce development charges by way of a site-specific by-law and agreement. There is no need to further amend the development charge by-law to provide relief for SCPI funded projects.

The Rental Rehabilitation Assistance Program (RRAP) is also administered by the City. Many, but not all RRAP funding involves renovations to existing structures in which no new units are being added. In such cases these developments would not attract a development charge under the by-law. In other instances, however, RRAP is used to fund improvements to affordable housing stock that change the unit mix or add new self-contained units to former rooming houses, for example. As well, RRAP can be used to convert non-residential buildings or space to affordable, rental residential use. In these latter cases the development charge by-law as currently drafted would result in a charge, which can be a significant proportion of the available RRAP funding of \$18,000 per unit, provided in the form of a forgivable loan. Agreements are entered into with the City and a mortgage is registered on title to ensure that the intentions of the funding program are carried out.

Applications for RRAP funding are conditionally approved prior to approval of a building permit, and are given final approval subject to satisfaction of the conditions that include issuance of a building permit. Therefore, it is possible to provide development charge relief to new dwelling units that have received conditional approval for RRAP funding. There would be a slight risk that an owner, after issuance of the building permit, would choose not to take advantage of the RRAP funding and could then, after receiving development charge relief at the building permit issuance, charge higher, non-affordable rents or could register as a condominium, but that risk is considered to be low. The City has an opportunity to monitor the situation for a five-year period until the next development charge by-law is adopted.

The development charge by-law attached to this report has been amended such that new dwelling units for which RRAP funding has been conditionally approved are exempted from development charges. Just as now occurs with non-profit housing projects, the Commissioner of Neighbourhood Services would provide a letter to the Chief Building Official advising of the conditional RRAP approval, prior to the issuance of an above-grade building permit.

Community and Neighbourhood Services (CNS) staff have strongly advised against providing development charge relief at this time for small, for-profit rental apartment units in general, for which there are no controls over tenure (i.e. conventional rental or registered condominium) and affordability. Development charge relief should not have the effect of encouraging the provision of very small, for-profit units for which the owners could charge rents that would not necessarily be affordable, or which could be registered as a condominium and be sold at market prices. Even if rents for small, conventional rental units are affordable, such a program could encourage smaller units at the same affordable rent levels as might otherwise be charged for larger units, and they may not remain at affordable rent levels. CNS staff recommend that any development charge relief for the creation of new, for-profit rental dwelling units be considered as part of a comprehensive review of the Municipal Housing Facilities By-law. Through the Municipal Housing Facilities By-law, agreements can be entered into that control rent levels and tenure, even if development charge relief is the only financial incentive involved.

The written submission received from the Rooming House Working Group (RHWG) also advocated that self-contained units created under the RRAP program be excluded from development charges. RHWG also suggested that the Municipal Housing Facilities By-law be amended to broaden its application beyond projects that respond to proposal calls. The review of that by-law by the Commissioner of CNS could also address this comment.

### Conclusions:

The City's current development charge by-law will expire on July 29<sup>th</sup>, 2004. A new by-law must be drafted before then, if Council wishes to continue to utilize development charge revenues as a source of funding for growth-related capital expenditures. Council has directed staff to bring forward a new by-law for its consideration.

Following considerable consultation with the general public, ratepayer groups, business groups and representatives of the land development industry, staff are recommending a proposed development charge by-law. This proposed by-law has incorporated input received through the public consultation as well as considerable staff input from each of the City's departments, boards, agencies, and commissions.

The fundamental principal behind development charges is that the costs of growth-related infrastructure should be primarily borne by the beneficiaries of such infrastructure. Existing taxpayers should not be required to pay for a substantial portion of the costs of growth-related infrastructure.

However, this principal must be balanced against the City's other urban planning and long-term economic development objectives. It is in the interests of all of the City's residents, both new and existing, that the policies adopted by Council contribute towards the City's long-term growth, quality of life and prosperity.

Finally, the proposed by-law must also achieve, and be seen to achieve, a basic fairness to all of the potential stakeholders. Staff believe that the policies within the proposed by-law achieve this fairness through a balancing of the City's fiscal and other public policy objectives.

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List of Attachments:

- Appendix A: Proposed Development Charge By-law  
Appendix B: Public Consultation Summary and Response to Written Submissions from  
Public Meeting  
Appendix C: "Proposal prepared by IBI Group on behalf of UDI/GTHBA" dated  
May 10, 2004 and City response dated May 19, 2004  
Appendix D: "Economic Effects of the Calculated 2004 City of Toronto Development  
Charges", prepared by David M. Nowlan, Professor of Economics  
Emeritus, University of Toronto, Partner, August Trust Research  
Partnership, May, 2004  
Appendix E: GTA Municipal Development Charge Comparisons

Appendix A

Proposed Development Charge By-law

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(June 3, 04)

Authority: Policy and Finance Committee Report No. , Clause No. ,  
as adopted by City of Toronto Council on , 2004

Enacted by Council:

CITY OF TORONTO

BY-LAW No. 2004

Bill No.

Being A By-law Respecting 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 Policy and Finance Committee at its meeting dated May 6, 2004, had before it a report entitled "City of Toronto Development Charge Background Study" prepared by C.N. Watson & Associates Ltd. dated April 19, 2004 (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 May 6, 2004, before the Policy and Finance Committee, prior to and at which the Study dated April 19, 2004, 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 Policy and Finance Committee at its meeting held on June 14, 2004, further considered the Study, the Addendum to the Study and a staff report dated 2004, 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 Clause of Report No. of The Policy and Finance Committee at its meeting held on 2004, 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;

Now therefore the Council of the City of Toronto HEREBY ENACTS as follows:



## DEFINITIONS

1. In this by-law, and including the recitals and schedules hereto,

- (a) "accessory use" means that 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;
- (b) "Act" means the *Development Charges Act, 1997, S.O. 1997, c.27*
- (c) "apartment unit" means 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 or entrances from the street level and an interior corridor, and the building contains three or more units with such access;
- (d) "bachelor unit" means 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;
- (e) "bedroom" means 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;
- (f) "board of education" has the same meaning as that specified in the *Education Act* or any successor legislation;
- (g) "Building Code Act" means the *Building Code Act, 1992, S.O. 1992, c.23*, as amended or any successor legislation;
- (h) "building permit" means a permit issued pursuant to the Building Code Act which permits the construction of all buildings and structures above grade.
- (i) "capital cost" has the same meaning it has in the Act;
- (j) "Chief Building Official" means a chief building official appointed or constituted under section 3 of the Building Code Act;
- (k) "City" means City of Toronto;
- (l) "complete building permit application" means an application submitted to the Chief Building Official for an above grade building permit which complies with all technical requirements of the Building Code Act and includes the payment of all applicable fees;
- (m) "Council" means the Council of the City of Toronto;
- (n) "development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 9 of this by-law 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, except interior alterations to an existing building or structure which do not intensify the use of the building;

- (o) "development charge" means a charge imposed pursuant to this by-law;
- (p) "dwelling room" means a room used or designed for human habitation and may include either but not both culinary or sanitary conveniences, and includes but is not limited to, the following building types as defined in this by-law: a group home, nursing home, a retirement home or lodge and a special care/special need dwelling, but does not include the following:
  - (i) a room in a hotel, motel, tourist home or guest home;
  - (ii) a bathroom or kitchen;
  - (iii) a room in a dwelling unit; or
  - (iv) a windowless storage room that has a floor area of less than 10 square metres;
- (q) "dwelling unit" means 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, tourist home or guest home.
- (r) "Former Municipalities" means 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;
- (s) "grade" means the definition provided for in the zoning by-law applicable to the Former Municipality in which the development is located at the time the complete building permit application is submitted to the Chief Building Official;
- (t) "group home" means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a 24 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 and amendments or replacements hereto;
- (u)
- (v) "non-residential gross floor area" means 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:

- (i) 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;
  - (ii) loading facilities above or below grade; and
  - (iii) a part of the building or structure above or below grade that is used for the parking of motor vehicles which is associated with and accessory to the principal use.
- (w) "local board" has the same meaning as defined in the Act;
- (x) "mobile home" means 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;
- (y) "multiple dwelling unit" means all dwellings units other than single detached, semi-detached and apartment units, and includes row dwellings;
- (z) "non-profit housing" means 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:
- (i) 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
  - (ii) a non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35, as may be amended from time to time.
- (aa) "non-residential uses" means land, buildings or structures or portions thereof used, or designed or intended for a use other than for a residential use, and includes retail uses as defined in this by-law, hotels, motels or similar buildings or structures providing temporary accommodation;
- (bb) "nursing home" means a residential building or the residential portion of a mixed-use building licensed as a nursing home under the *Housing Homes Act*;
- (cc) "owner" means 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;

- (dd) "party wall" means 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;
- (ee) "place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, as amended or any successor legislation;
- (ff) "residential gross floor area" means 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 such unit used for the parking of motor vehicles or common service areas;
- (gg) "residential use" means 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, motel or similar building or structure providing temporary accommodation;
- (hh) "retail use" means lands, buildings or structures or parts thereof used, designed or intended for use for the primary purpose of the sale or rental of services, goods, foods, wares, merchandise, substances, articles or things to the public, and includes offices in connection with, related or ancillary to such retail uses. Retail use includes, but is not limited to: restaurants; fast food restaurants; banquet halls; night clubs/concert halls/theatres/cinemas/movie houses/drive-in theatres; automotive fuel stations with or without service facilities; commercial parking structures; specialty automotive shops/automotive repairs/collision services/car or truck washes; auto dealerships; regional shopping centres; community shopping centres; neighbourhood shopping centres, including more than two stores attached and under one ownership; department/discount stores; banks and similar financial institutions, including credit unions (excluding freestanding bank kiosks); warehouse clubs and retail warehouses, including commercial establishments which have as their principal use the sale of goods and merchandise to the public in a warehouse format; personal service stores and establishments;
- (ii) "retirement home or lodge" means 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;
- (jj) "rooming house" means a building originally constructed as a single detached house or semi-detached house that:

- (i) contains dwelling rooms designated or intended for use as a living accommodation by more than three persons; and
  - (ii) may also contain one or more dwelling units,
- (kk) “row dwelling” means one of a series of three or more attached residential buildings with:
- (i) each building comprising one dwelling unit;
  - (ii) each building divided vertically from another by a party wall; and
  - (iii) each building located on a lot;
- (ll) "semi-detached dwelling" means 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;
- (mm) "services" (or "service") means those services designated in section 4 of this by-law;
- (nn) "single detached dwelling unit" and "single detached" means a residential building consisting of one dwelling unit and not attached to another structure used for residential uses or purposes and includes mobile homes;
- (oo) “special care/special need dwelling” means a building containing more than four dwelling units or dwelling rooms; which units have a common entrance from street level; where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings; which may or may not have exclusive sanitary and/or culinary facilities; 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;
- (pp) “temporary building or structure” means a building or structure constructed, erected or placed on land for a continuous period not exceeding eight months;

## DESIGNATION OF SERVICES

2. It is hereby declared by the Council of the City that all development of land within the City will increase the need for services.
3. Once this by-law is in force, the development charge applicable to a development as determined under this by-law shall apply without regard to the services required or used by any individual development.

4. 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:
- (a) Childcare
  - (b) Shelters/Housing
  - (c) Emergency Medical Services
  - (d) Parks and Recreation
  - (e) Urban Development Services
  - (f) Development Related Studies
  - (g) Library
  - (h) Fire Facilities
  - (i) Police
  - (j) Roads
  - (k) Transit
  - (l) Sanitary Sewers
  - (m) Water
  - (n) Storm Water Management

#### APPLICATION OF BY-LAW - RULES

5. For the purpose of complying with section 6 of the Act, rules have been developed and are provided for in this by-law as follows:
- (a) 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 sections 7 through 35 of this by-law;
  - (b) the rules for determining the exemptions shall be in accordance with sections 11 through 14 of this by-law;
  - (c) the rules for determining the indexing of development charges shall be in accordance with section 26 of this by-law;
  - (d) the rules for determining the phasing in of development charges shall be in accordance with section 31 and 32 of this by-law;
  - (e) the rules respecting the redevelopment of land shall be in accordance with section 16 of this by-law;
  - (f) the area to which this by-law applies shall be the area described in section 7 of this by-law.
6. Development charges shall be payable in the amounts set out and phased in accordance with section 31 and Schedules A and B, where the lands are located in the area described in section 7 and the development of the lands requires any of the approvals set out in section 9.

### Areas to which By-law applies

7. This by-law 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*.
8. This by-law shall not apply to lands that are owned by and used for the purposes of:
  - (a) the City, or a local board thereof as defined in the Act;
  - (b) a board of education.

### Approvals for Development

9. Development charges shall be imposed on all lands, buildings or structures that are developed if the development requires:
  - (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act* ;
  - (b) approval of a minor variance under section 45 of the *Planning Act*;
  - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
  - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
  - (e) a consent under section 53 of the *Planning Act*;
  - (f) the issuing of a permit under the *Building Code Act* in relation to a building or structure.
10. No more than one development charge for each service designated in section 4 shall be imposed upon any lands, buildings or structures to which this by-law applies even though two or more of the actions described in section 9 are required before the lands, buildings or structures can be developed.

### EXEMPTIONS

#### Exemptions for Intensification of Housing

11. (1) This by-law does not apply with respect to the creation of:
  - (a) an enlargement to an existing dwelling unit;
  - (b) one or two additional dwelling units in an existing single detached dwelling unit; or

- (c) one additional dwelling unit in any existing semi-detached dwelling or other existing residential building.
  - (2) For the purposes of sections 12 and 13 of this by-law, “gross floor area” shall be as defined in Ontario Regulation 82/98, as amended, to the *Development Charges Act*, 1997, or by any successor legislation or regulation. For ease of reference, the definition of “gross floor area” is set out in Schedule “C” to this by-law.
12. Notwithstanding section 11, 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 unit.
13. Notwithstanding section 11, 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; and
  - (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.

#### Other Exemptions

14. Notwithstanding the provisions of this by-law, 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) a public hospital receiving aid under the *Public Hospitals Act*, and colleges and universities as defined in section 171.1 of the *Education Act* and used for the purposes set out in the respective legislation;
  - (c) lands, buildings or structures which are the subject of an agreement entered into by the City or a former Municipality which agreement in words expressly exempted the lands, buildings or structures from development charges;
  - (d) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground;
  - (e) non-profit housing;
  - (f) dwelling units for which the City has granted conditional approval pursuant to the Rental Rehabilitation Assistance Program;
  - (g) rooming houses;
  - (h) a temporary building or structure provided that:



- (i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this by-law; and
  - (ii) upon application being made for the issuance of a permit under the *Building Code Act, 1992* 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 such building or structure is present on the subject lands for a continuous period exceeding eight months, and development charges thereby become payable; or
- (i) sales offices or pavilions which are required and associated with the sale of new residential development to the public at large.

## AMOUNT OF CHARGE

### Charge

15. (1) The development charges described in Schedule "A" to this by-law shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit 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 unit, and calculated with respect to each of the services according to the percentage of charge by service set out in Schedule A to this by-law.
- (2) Where a multiple dwelling unit is less than 55 square metres in residential gross floor area, such unit shall be considered to be an apartment unit for the purpose of determining the applicable development charge set out on Schedule "A" to this by-law.
- (3) Subject to the provisions of this by-law, the development charges described in Schedule "B" shall be imposed upon retail uses of lands, buildings or structures, and in the case of a mixed-use building or structure upon the retail uses of such mixed-use building or structure, according to the amount of non-residential gross floor area and calculated with respect to each of the services according to the percentage of charge by services set out in Schedule "B" to this by-law.

### Redevelopment

16. Notwithstanding any other provision of this by-law, 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 redevelopment 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 purposes, the development charges will be reduced by an amount calculated by multiplying the applicable development charge under section 15 of this by-law by the number of dwelling units or dwelling rooms that have been or will be demolished or converted to another type of 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 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 or converted;

provided that such amounts or credits shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

#### CALCULATION AND PAYMENT OF DEVELOPMENT CHARGES

- 17. 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 at a different time pursuant to sections 19 or 20 herein or pursuant to an agreement entered into between the City and the owner under subsection 27(1) of the Act.
- 18. Notwithstanding section 10, if two or more of the actions described in section 9 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.
- 19. Notwithstanding the provisions of this by-law, 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.
- 20.
  - (1) Notwithstanding section 17, the development charge with respect to water works, sanitary sewerage, roads and storm water management to be calculated in accordance with the percentage by service set out in Schedules "A" and "B", shall be payable, with respect to an approval of a plan of subdivision pursuant to section 51 or a consent pursuant to section 53 of the *Planning Act*, immediately upon the parties entering into a subdivision agreement or a consent agreement.
  - (2) The outstanding balance of the development charge applicable to development with respect to a plan of subdivision or a consent application as the case may be, 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.

- (3) Where pursuant to an agreement entered into by a Former Municipality which required payments pursuant to a by-law of the Former Municipality enacted pursuant to the Development Charges Act, R.S.O. 1990, Ch. D9, unless the agreement provides otherwise, any payment of the development charge pursuant to 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 or consent agreement as provided for in subsection 20(1), in respect of the building or structure for the use to which the development charge applies provided that the amount of any such credit shall not exceed, in total, the amount of the development charge otherwise payable.
  - (4) Where pursuant to an agreement entered into by a Former Municipality which required the provision of work pursuant to the Development Charges Act, R.S.O. 1990, Ch. D9, relating to a service set out in section 4, unless the agreement provides otherwise, the provision of services pursuant to 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 or consent agreement as provided for in subsection 20(1), in respect of the building or structure for the use to which the development charge applies provided that 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 by service set out in Schedule "A" or "B".
21. Where a development charge or any part of it remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.
  22. For the purpose of the calculation and collection of development charges pursuant to this by-law, where the provisions of this by-law conflict with or differ from the provisions of zoning by-laws of the Former Municipalities, the provisions of this by-law shall be applied except that the definition of "grade" as defined in section 1 shall prevail.

#### PAYMENT BY SERVICES

23. Notwithstanding the provisions of this by-law, 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 section 4, provided that such credit shall not exceed the standard for the equivalent service for which a development charge is payable hereunder. Such agreement shall provide for a credit equal to the reasonable cost to the owner of providing the work or service, provided that 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 by service set out in Schedule "A" or "B" applicable to that development.

24. Nothing in this by-law 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.

#### FRONT ENDING AGREEMENTS

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

#### INDEXING

26. The development charges set out in Schedules "A" and "B" shall be adjusted by the City Treasurer without amendment to this by-law on January 1, 2006, in accordance with the most recent change in the Statistics Canada Quarterly Construction Price Statistics, Catalogue Number 62-007 for the preceding period commencing on the date of enactment of this by-law. Thereafter the development charges set out in Schedules "A" and "B" shall be adjusted by the City Treasurer without amendment to this by-law annually on January 1 of each subsequent year, in accordance with the most recent annual change in the Statistics Canada Quarterly Construction Price Statistics Catalogue Number 62-007. For greater certainty, Catalogue 62-007-XPB shall be referred to, and the Non Residential Building Construction Price Index (Toronto) shall be used.

#### SCHEDULES

27. The following schedules to this by-law form an integral part thereof:

Schedule "A" --Residential Development Charges

Schedule "B"--Non Residential Development Charges

#### HEADINGS FOR REFERENCE ONLY

28. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

#### SEVERABILITY

29. If, for any reason, any provision, section, subsection or paragraph of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this by-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

DATE BY-LAW IN FORCE, PHASING OF BY-LAW AND TERM OF BY-LAW

30. This by-law shall come into force on July 28, 2004.
31. The phasing in of the development charge calculated, payable and collected pursuant to this by-law will be as shown on Schedules "A" and "B".
32. Notwithstanding section 31, provided that:
- (a) a complete building permit application is submitted on or before December 31, 2004, and
  - (b) an above grade building permit pursuant to such application is issued to, and fully paid for by, the applicant on or before October 31, 2005,
- the applicable development charge shall be shown in Column 1 of Schedule "A" and "B" for the period of July 28, 2004, to December 31, 2004.
33. Where development charges have been paid on the issuance of a building permit and the building permit is subsequently cancelled, 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.
34. This by-law shall continue in full force and effect for a term of five (5) years from the date on which it comes into force.

ADDITIONAL DEVELOPMENT CHARGES

35. Additional Development Charges may be imposed pursuant to other by-laws.
36. City of Toronto By-law No. 476-1999, as amended, is hereby repealed effective on the date that this by-law comes into force.

ENACTED AND PASSED this            day of            , A.D. 2004.

Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

\_\_\_\_\_

SCHEDULE "A"  
CITY OF TORONTO BY-LAW NO. \_\_\_\_\_

| <b>RESIDENTIAL DEVELOPMENT CHARGE PER UNIT</b> |  |   |                     |
|--|--|---|---------------------|
| Unit Type                                      | (1)<br>July 28, 2004 to<br>Dec. 31, 2004 | (2)<br>Jan. 1, 2005 to<br>June 30, 2005 | (3)<br>July 1, 2005 |
| Single Detached and Semi-Detached              | \$ 4,370.00                              | \$ 6,723.00                             | \$ 9,075.00         |
| Apartment - Two Bedroom and Larger             | \$ 2,816.00                              | \$ 4,351.00                             | \$ 5,886.00         |
| Apartment - One Bedroom and Bachelor           | \$ 1,802.00                              | \$ 2,730.00                             | \$ 3,658.00         |
| Multiple                                       | \$ 3,544.00                              | \$ 5,383.00                             | \$ 7,222.00         |
| Dwelling Room                                  | \$ -                                     | \$ 1,172.00                             | \$ 2,345.00         |

| <b>RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED AS A<br/>PERCENTAGE OF CHARGE BY SERVICE</b> |            |
|--|------------|
| Service  | Percentage |
| Childcare  | 0.5%       |
| Shelter/Housing  | 3.8%       |
| Emergency Medical Services   | 0.5%       |
| Parks and Recreation   | 13.3%      |
| Urban Development Services   | 0.8%       |
| Development Related Studies  | 1.1%       |
| Library  | 6.2%       |
| Fire Facilities  | 0.9%       |
| Police   | 1.3%       |
| Roads  | 24.8%      |
| Transit  | 27.7%      |
| Sanitary Sewer   | 15.6%      |
| Water  | 1.1%       |
| Stormwater Management  | 2.4%       |
| Total percentage of charge by service  | 100.0%     |

SCHEDULE "B"  
CITY OF TORONTO BY-LAW NO. \_\_\_\_\_

| <b>NON-RESIDENTIAL DEVELOPMENT CHARGE PER SQ. M.</b> |  |   |                     |
|--|--|---|---------------------|
| Non-residential Use                                  | (1)<br>July 28, 2004 to<br>Dec. 31, 2004 | (2)<br>Jan. 1, 2005 to<br>June 30, 2005 | (3)<br>July 1, 2005 |
| Retail   | \$ -                                     | \$ 36.44                                | \$ 72.87            |

| <b>NON-RESIDENTIAL DEVELOPMENT CHARGE EXPRESSED AS A<br/>PERCENTAGE OF CHARGE BY SERVICE</b> |            |
|--|------------|
| Service  | Percentage |
| Childcare  | 0.4%       |
| Shelter/Housing  | 0.0%       |
| Emergency Medical Services   | 0.2%       |
| Parks and Recreation   | 0.9%       |
| Urban Development Services   | 0.7%       |
| Development Related Studies  | 0.9%       |
| Library  | 0.5%       |
| Fire Facilities  | 0.9%       |
| Police   | 1.2%       |
| Roads  | 26.1%      |
| Transit  | 25.3%      |
| Sanitary Sewer   | 33.2%      |
| Water  | 5.0%       |
| Stormwater Management  | 4.7%       |
| Total percentage of charge by service  | 100.0%     |

## Appendix B

### Public Consultation Summary and Response to Written Submissions from Public Meeting

#### A. Public Consultation Summary

| Consultation Number | Organization   | Date                         |
|---------------------|--|------------------------------|
| 1                   | Development Industry Representatives                     | March 11, 2004               |
| 2                   | General Public Consultation Workshop                     | March 29, 2004               |
| 3                   | Business Associations and Development Community Workshop | March 30, 2004               |
| 4                   | Development Industry Representatives                     | March 31, 2004               |
| 5                   | Development Industry Representatives                     | April 13, 2004               |
|                     | Release final Background Study and By-law                | April 21, 2004               |
| 6                   | Development Industry Representatives                     | May 5, 2004                  |
| 7                   | Statutory Public Meeting – P&F                           | May 6, 2004                  |
| 8                   | Development Industry Representatives – technical         | May 19, 2004                 |
| 9                   | Ratepayer Organization Consultation (4 sessions)         | May 27, June 1 and<br>June 2 |
| 10                  | Toronto Industry Network                                 | June 1, 2004                 |

#### B. Response to Written Submissions from the Public Meeting

A public meeting pursuant to Section 12 of the Act was held on May 6, 2004, at the City of Toronto Policy and Finance Committee in order to receive and consider public input with respect to the Development Charge Background Study and proposed by-law. As required by Section 12 of the Act, notice of the public meeting was given in advance of the twenty day requirement, and the proposed by-law and Background Study dated April 21, 2004, were made available to the public at least two weeks prior to the public meeting.

At the May 6, 2004, public meeting, sixteen deputants appeared before the Committee and the Committee received seventeen written submissions from the following individuals:

1. Gaetano Franco, Vice President, 1402249 Ontario Inc.
2. Neil Morrow & Colin Soule, Vice-Presidents, Giffels Design-Build Inc.
3. Joel Flatt, President, Give and Go Prepared Foods
4. Neil H. Rodgers, President, Urban Development Institute
5. Steven A. Zakem, Aird & Berlis LLP
6. B.S. Onyschuk, Gowling Lafleur, Henderson LLP
7. Derek Ballantyne, CEO, Toronto Community Housing Corporation
8. Ron Lackner, Director of Operations, Crompton Co.



9. Jim Murphy, Director of Government Relations, Greater Toronto Homebuilders Association
10. Paul Scrivener, On Behalf of Toronto Industry Network
11. Karen Palkowski, Chair, High Park Residents Association
12. Robert Blazevski, Vice President, Planning, MintoUrban Communities
13. Julie DiLorenzo, First Vice President, Greater Toronto Homebuilders Association
14. Pat Berne, Pemberton Group
15. Peter F. Cutten, Vice-Chair, Rooming House Working Group
16. Mauro Ritacca, Manager, Government Relations, Toronto Real Estate Board
17. Neil H. Rodgers, President, Urban Development Institute – speaking notes from Committee presentation

The principal issues raised in each of these submissions are summarized below along with the staff responses to these issues.

1. Gaetano Franco, Vice President, 1402249 Ontario Inc. (March 23, 2004)

#### Principal Comments and Issues

- (a) The New Toronto Community Improvement Plan (CIP) Area should be exempted from development charges;
- (b) Even with the tax grants resulting from the CIP, development in the New Toronto Area (a “brownfield area”) is less financially attractive than suburban greenfield development across the GTA; and
- (c) The proposed charges will negate the benefit of the CIP tax grants.

#### Staff Response

Legal staff advise that the Development Charges Act permits exemptions for “types of development” and that an exemption for the redevelopment of contaminated “brownfield” lands for employment uses would not constitute a type of development. Also the City does not have the ability to accurately delineate contaminated areas so as to provide an area-specific exemption for employment uses that develop within those delineated areas.

However, most of the new employment uses on contaminated lands would be industrial in nature and staff have recommended a complete development charge exemption for industrial development.

2. Neil Morrow & Colin Soule, Vice-Presidents, Giffels Design-Build Inc. (May 4, 2004)

#### Principal Comments and Issues

- (a) The proposed charges will act as a disincentive towards the location of businesses in Toronto.
- (b) The proposed charges will diminish tax-growth and employment opportunities.

### Staff Response

The recommended by-law includes an exemption for all non-residential development, with the exception of retail development.

3. Joel Flatt, President, Give and Go Prepared Foods (May 5, 2004)

### Principal Comments and Issues

- (a) The proposed development charges will threaten the firm's expansion plans.
- (b) The proposed charges should not be imposed on firms wishing to expand in Toronto.

### Staff Response

The recommended by-law includes an exemption for all non-residential development, with the exception of retail development.

4. Neil H. Rodgers, President, Urban Development Institute (UDI) (February 24, 2004)

### Principal Comments and Issues

- (a) The preparation of additional analysis and reports is necessary in order to assess the economic impact of the proposed charges.
- (b) The increase in charges is being proposed at a time when real estate sales activity is slowing.
- (c) The City is not undertaking a proactive program to spend the development charge and Section 37 reserve fund monies on the projects for which they were collected.
- (d) The current staff recommendation does not provide an exemption to brownfields.

### Staff Response

As discussed in Sections 2 and 3 of the staff report, Professor Nowlan of the University of Toronto was retained by staff to provide an analysis of the economic impact of the proposed charges. His conclusion was that the proposed charges on residential development would not have a major impact. According to his analysis, the impact of the proposed charges on non-residential development would be more significant. However, staff are recommending an exemption for all industrial, office and hotel development.

With respect to the development charge reserve fund, it is not unusual for municipalities to have significant development charge reserve fund balances as adequate reserves must be accumulated in order to fund large capital projects. The balances may only be utilized to fund eligible growth-related capital projects

that meet the stringent criteria of the Act. Funding is approved by Council annually as part of the capital budgeting process, and projects are approved on a priority basis as identified by the various department, agencies, boards and commissions. As noted in the May staff report, the development charge reserve fund balances for transit, roads, Yonge Centre, sanitary sewer and water, totalling approximately \$89 million, have been applied against future spending requirements. In other words, an adjustment to reduce the development charges otherwise recoverable for these services was made.

With respect to brownfield redevelopment, Legal staff advise that the Development Charges Act permits exemptions for "types of development" and that an exemption for the redevelopment of contaminated "brownfield" lands for employment uses would not constitute a type of development. Also the City does not have the ability to accurately delineate contaminated areas so as to provide an area-specific exemption for employment uses that develop within those delineated areas.

However, most of the new employment uses on contaminated lands would be industrial in nature and staff have recommended a complete exemption for industrial development.

5. Steven A. Zakem, Aird & Berlis LLP (May 5, 2004)

Principal Comments and Issues

- (a) The proposed by-law should exempt redevelopment projects on heritage sites from the payment of development charges.
- (b) An exemption should be provided for the redevelopment of brownfield sites.
- (c) The proposed six-month phase-in period is too short.
- (d) The proposed By-Law should provide exemptions for the expansion of existing non-residential buildings.
- (e) The proposed By-Law should provide an exemption for all parking structures.

Staff Response

With respect to heritage redevelopment and intensification, in some instances, the redevelopment of a heritage building would constitute interior alterations that do not intensify the use of the building. Therefore, development charges would not be payable. In other cases, the project would be eligible for a redevelopment credit, provided that it meets the criteria in the by-law.

Council could consider a grant-in-lieu of development charge program for heritage conservation initiatives. However, a budget allocation for such a grant program would have to be made, because DC funds can only be used for the purposes for which they were collected and cannot fund a grant program. An

exemption for heritage redevelopment is not included in the recommended by-law.

With respect to brownfield redevelopment, Legal staff advise that the Development Charges Act permits exemptions for "types of development" and that an exemption for the redevelopment of contaminated "brownfield" lands for employment uses would not constitute a type of development. Also the City does not have the ability to accurately delineate contaminated areas so as to provide an area-specific exemption for employment uses that develop within those delineated areas.

However, most of the new employment uses on contaminated lands would be industrial in nature and staff have recommended a complete exemption for industrial development.

With respect to the phasing-in of the new charge, staff are now recommending a longer phase-in period of one year.

With respect to expansions to non-residential buildings, the proposed by-law provides an exemption for all non-retail non-residential developments, for both new buildings and expansions.

The by-law has also been amended to exempt parking, both above and below grade, in non-residential buildings.

6. B.S. Onyschuk, Gowling Lafleur, Henderson LLP (May 6, 2004)

Principal Comments and Issues

- (a) High-density residential development provides the City with a net fiscal gain in terms of taxes received.
- (b) Charges on this type of development in the City's Central Area should be frozen at the current levels.
- (c) The date of statutory site plan approval should be used in determining any grandparenting and the development charge payable for projects currently in progress.
- (d) Phase II of the College Park project should be protected from any increased development charge on the basis that the entire College Park project is already in receipt of full shoring and excavation permits and is proceeding to development.

Staff Response

As discussed more fully in the Feb 13, report, staff have recommended a uniform city-wide charge rather than specific charges for the Central Area or for any other defined area in the City. Most municipalities in Ontario, particularly those in mature urban areas, have established uniform, municipal-wide development

charges. Area-specific charges have generally been used in “greenfield” situations to underpin master servicing and front-end financing arrangements.

Some of the principal reasons that mature, urban municipalities have adopted a City-wide charge are:

- (a) Continued growth in one part of the City, such as the central area, can trigger the need for new infrastructure throughout the City.
- (b) Many services, including roads, treatment plants and City-wide parks, are provided on a municipal-wide basis and are therefore best funded on that basis. The service areas for recreation facilities, fire halls, and other services are not readily definable, as they draw users from, or provide services to, a wide and variable area.
- (c) Once boundaries have been defined for area-specific charges, those on the higher charge side of any boundary may be encouraged to appeal the policy in order to modify the location of the line, or the amount of the charge. As a result, area-specific charges are more contentious, subject to appeal and difficult to defend and administer.

With respect to grandparenting provisions, the proposed by-law provides for the grandparenting of building permit applications that are submitted by December 31, 2004 and are approved by October 31, 2005. Applications falling within this time frame would be subject to the current development charge rates.

Site plan approval is not recommended by staff as the criteria for the grandparenting of applications. The site plan application does not represent a commitment by a developer to imminent construction as the resulting approval does not have any expiry date.

7. Derek Ballantyne, CEO, Toronto Community Housing Corporation (TCHC) (April 14, 2004)

#### Principal Comments and Issues

- (a) The TCHC will be incurring additional costs in its initiative to improve the environmental sustainability of the redeveloped Regent Park community.
- (b) As a result, the City will realize savings because of a reduced load on water and wastewater treatment facilities.
- (c) There should be relief from the full impact of increased development charges for developments that assist in meeting environmental sustainability goals.
- (d) The incentive could be in the form of a credit equal to some percentage of the marginal cost to the City of producing water for water not required per residential unit through conservation efforts.

### Staff Response

Section 7.7 of the May staff report addresses the issue of development charge credits towards sustainable development initiatives.

It would be an extremely complex and difficult task to develop a workable mechanism that is fair to both the City and the owner regarding the provision of credits for the cost of on-site “sustainable development” work that relates to off-site services funded through development charges.

The DC By-law is not a workable tool for encouraging sustainable development practices through a credit system that is governed by rigid legislation. Staff foresee that at best, a grant system could be considered for sustainable development initiatives, but this would not be related to the DC By-law, and the question then arises as to how the grant system would be funded. Staff does not recommend further consideration of a DC credit system for sustainable development initiatives.

A credit for sustainable development is not included in the proposed by-law.

8. Ron Lackner, Director of Operations, Crompton Co. (April 26, 2004)

### Principal Comments and Issues

- (a) The proposed development charge would most likely terminate Crompton Co.’s plans to expand in Toronto.
- (b) Companies wishing to expand in Toronto should be exempted from development charges.
- (c) Such an exemption would enhance the City’s tax revenues.

### Staff Response

The proposed by-law provides a development charge exemption for all non-retail non-residential uses.

9. Jim Murphy, Director of Government Relations, Greater Toronto Homebuilders Association (Undated)

### Principal Comments and Issues

- (a) The proposed charges are inflated.
- (b) The increased costs resulting from the proposed charges will be borne by the purchasers of housing in Toronto.
- (c) Residential development generates significant new revenue for the City.
- (d) The City has accrued a large balance in the development charge reserve fund.
- (e) Option 2 for the mitigation of residential development charges, described in the May 3 staff report, is the correct mitigation approach.

## Staff Response

Staff and the development charges consultant believe that the calculations in the Background Study are reasonable and defensible. Appendix 'D' contains the City's response to a number of technical issues relating to the calculated charge that were raised by the consultant retained by GTHBA and UDI.

As discussed above, Professor Nowlan's analysis indicates that the maximum calculated charges would not result in a very large impact on the market for housing in Toronto. According to this analysis, competition from existing resale housing and housing in neighbouring municipalities will limit developers' ability to pass the cost of the new charges on to purchasers. In the short-run, the increase in charges will be primarily borne by developers through a slight reduction in profitability. In the long-run, the cost of the charges will be capitalized into the values of land that may be assembled for development.

Nevertheless, because of the substantial increase over existing charges, staff is recommending an 18 percent reduction to the residential development charge. This reduction eliminates any increase to the water and wastewater component of the current development charge. While the recommended development charge is significantly higher than the current development charge, the City's residential development charge rate is still only 50 percent of the average residential development charge rate levied in the ten largest GTA municipalities.

With respect to the development charge reserve funds, it is not unusual for municipalities to have significant development charge reserve fund balances, as adequate reserves must be accumulated in order to fund large capital projects. Development charges can only be utilized to fund eligible growth-related capital projects that meet the stringent requirements of the Act. It should also be noted that the reserve fund balances for transit, roads, Yonge Centre, sanitary sewer and water, totalling approximately \$89 million, have been applied against the development charge otherwise recoverable for these services. In other words, an adjustment to reduce the development charge otherwise recoverable for these services was made.

10. Paul Scrivener, On Behalf of Toronto Industry Network (May 6, 2004)

### Principal Comments and Issues

- (a) Additional development charges on industrial development would reduce Toronto's competitiveness in attracting industrial development and in retaining the existing industrial base.
- (b) The Toronto Industry Network is strongly in favour of staff's recommendation to exempt industrial development from development charges.

### Staff Response

The recommended by-law provides an exemption for all non-retail non-residential development, including an exemption for industrial uses.

11. Karen Palkowski, Chair, High Park Residents Association (April 15, 2004)

### Principal Comments and Issues

- (a) There should be no negative economic impact to the existing taxpayers as a result of new development or intensification.
- (b) The High Park Residents Association recognizes that this means the current development charge will have to be significantly increased to cover the actual economic cost of development.
- (c) Policing costs should be incorporated in the charge.

### Staff Response

While the recommended residential development charge is reduced from the maximum calculated amount, it nevertheless reflects a very large increase over existing charges. A number of services, such as policing, child care, social housing, emergency shelters, ambulance facilities and vehicles, that were not previously incorporated in the charge are now included. The implementation of the proposed charges should improve the City's ability to fund growth-related infrastructure.

12. Robert Blazeovski, Vice President, Planning, MintoUrban Communities (May 6, 2004)

### Principal Comments and Issues

- (a) Residential development generates a fiscal surplus for the City of Toronto.
- (b) The level of construction activity in the central area will be sensitive to the level of development charges.
- (c) Developers incur additional costs in carrying out downtown development.
- (d) The proposed charges will have a significant impact on MintoUrban's ability to proceed with the delivery of their projected construction starts.

### Staff Response

Although multi-residential development results in increased property tax revenues, it also results in an increased demand for City services. Furthermore, because of mandated service discounts and other limits on the recovery of growth-related costs discussed in greater depth in Section 5.4, the City must use tax or fee revenue to fund a portion of the growth-related infrastructure costs even if the full calculated charges are imposed.



While staff recognize that increased costs may accompany construction of multi-residential units within any urban environment, generally higher densities and higher selling prices will partially compensate for such increased costs.

As discussed above, the economic analysis carried out by Professor Nowlan does not support the view that the imposition of the proposed residential charges will result in a significant impact on the market for residential housing.

With respect to the quantum of the residential development charge, the by-law provides for an 18 percent reduction to the residential charge. This reduction eliminates any increase to the water and wastewater component of the current development charge. While the recommended development charge is significantly higher than the current development charge, the City's residential development charge rate is still only 50 percent of the average residential development charge rate levied in the ten largest GTA municipalities.

13. Julie DiLorenzo, First Vice President, Greater Toronto Homebuilders Association (May 6, 2004)

#### Principal Comments and Issues

- (a) The proposed charges undermine the ability to create multiunit residential housing and other housing in Toronto.
- (b) Multi-residential residential intensification provides an enormous benefit to the City and the Province from an environmental impact, quality of life and fiscal standpoint.
- (c) Construction costs are higher in Toronto than in the neighbouring "905" municipalities.

#### Staff Response

While staff recognize that increased costs may accompany construction of multi-residential units within any urban environment, generally higher densities and higher selling prices will partially compensate for such increased costs.

While multi-residential development results in increased property tax revenues, this new development does still produce an increase in demand for City services.

As the maximum calculated residential charges represent a large increase over existing charges, staff are recommending an 18 percent reduction through the elimination of any increase in the water/wastewater portion of the charges.

14. Pat Berne, Pemberton Group (May 6, 2004)

#### Principal Comments and Issues

- (a) Residential construction has generated new construction jobs and increased tax revenues.

- (b) The growth in the condominium market has resulted in higher vacancy rates in rental apartments.
- (c) If new growth falters, existing ratepayers will have to fund all of the costs of replacing existing infrastructure.
- (d) Transition and grandparenting provisions in the proposed by-law do not address buildings that have not achieved sufficient sales to obtain construction financing.
- (e) The proposed charges are not substantiated and must be lowered.

#### Staff Response

While the installation of new growth-related infrastructure may often result in the replacement of aged, existing infrastructure, development charges are not intended to finance the capital maintenance of the City's existing infrastructure. The appropriate financing mechanism for this capital replacement is through the City's regular capital budget process.

With respect to transition provision, it is necessary to balance the impact of the increased development charge on the rate of development and on developers with projects in the development pipeline vis-à-vis the financial implications on the City resulting from the foregone revenue, and the shortfall in funding needed to construct the necessary growth-related capital infrastructure. It is recognized that transition provisions are necessary due to the increase development charge. In order to ensure an orderly transition into the new development charge regime, the phase-in has been extended to one year, and a time-limited grandparenting provisions has been included in the recommended by-law.

Staff and the development charges consultant believe that the calculations in the Background Study are reasonable and defensible. Appendix 'C' contains the City's response to a number of technical issues relating to the calculated charge that were raised by the consultant retained by GTHBA and UDI.

15. Peter F. Cutten, Vice-Chair, Rooming House Working Group (May 3, 2004)

#### Principal Comments and Issues

- (a) Rooms converted to self contained units under the Residential Rehabilitation Assistance Program should be exempt from the payment of development charges.
- (b) The municipal facilities by-law should be expanded to include projects that meet public policy initiatives but are not selected in proposal reviews.

#### Staff Response

An exemption for dwelling units that conditionally receive RRAP financing is provided in the recommended by-law.

Staff support the request to expand the review of the municipal housing facilities by-law to consider projects that meet public policy initiatives but are not selected in proposal reviews. This request has been forwarded to the appropriate staff in Community and Neighbourhood Services for review.

16. Mauro Ritacca, Manager, Government Relations, Toronto Real Estate Board (May 6, 2004)

#### Principal Comments and Issues

- (a) The proposed increases should be reduced beyond the currently proposed reduction since Toronto is already one of the most expensive places to live.
- (b) The industrial, commercial and institutional exemption must continue, especially because of Toronto's uncompetitive business property taxes.
- (c) Relief for affordable rental and ownership housing should be provided.
- (d) The development charge by-law include transition provisions, and more is needed beyond delayed implementation to January 1, 2005.
- (e) TREB supports the implementation of city-wide charges and is concerned that area-specific charge could lead to disinvestment in areas with development charges.

#### Staff Response

The proposed by-law exempts all non-residential development from the payment of development charges, with the exception of retail development.

The by-law also recommends a further 18 percent reduction to the calculated residential development charge. This reduction is due to the elimination of any increase in the current water and wastewater component of the development charge.

With respect to affordable housing, the by-law continues to provide an exemption for the creation of non-profit affordable housing. For-profit housing projects that are part of the Let's Build Program and secured in an agreement under the City's Municipal Housing Facilities By-law can also receive development charge relief on a case-by-case basis. The draft by-law has been revised to exempt dwelling units conditionally financed through the Rental Rehabilitation Assistance Program. Furthermore, the development charge by-law is being amended to provide a lower charge for dwelling rooms, in addition to an exemption to rooming houses. Also, small townhouse units, are to be treated as apartment units for the purposes of the development charge thus attracting a lower development charge than larger apartment units.

Staff of Community and Neighbourhood Services have strongly advised against providing development charge relief at this time for small, for-profit rental apartment units in general, for which there are no controls over tenure and affordability. Staff recommend that development charge relief for the creation of

new, for-profit rental dwelling units be considered as part of a comprehensive review of the Municipal Housing Facilities By-law. Accordingly, a specific exemption for affordable rental housing is not included in the by-law.

The recommended transition provision now include a one-year phase-in of the increases and a time-limited grandparenting provision.

17. Neil H. Rodgers, President, Urban Development Institute (UDI) (May 6, 2004)

#### Principal Comments and Issues

- (a) UDI prefers Option 2, from the May 3 staff report, as the approach towards the mitigation of impacts of the full calculated residential development charges.
- (b) Staff should be directed to consider an exemption for retail/commercial uses within a mixed-use residential commercial or office/commercial development.
- (c) This would achieve the planning goal of street-level retail uses.
- (d) Staff should also consider the following fourth option for the mitigation of impacts from the full calculated development charges.
- (e) Exempt industrial, commercial and hotel development.
- (f) Reduce all other non-residential charges by charging only the roads/transit components of the proposed development charge.
- (g) The definition of non-residential GFA will place undue financial burden on the industry and end users since the proposal suggests that applicants would pay on every square foot of the building where the current by-law exempts HVAC and parking/loading areas – above or below grade.
- (h) The proposed by-law does not provide a credit for applicants that demolish a non-residential use to provide a residential use or vice versa - since the municipal services are in place, the applicant should be appropriately credited regardless of the new use.
- (i) The Committee should direct staff to consider transition provisions beyond the terms referenced in the staff report, for both residential and non-residential so that the development industry has the ability to proceed with economic, investor and consumer confidence on the projects it has commenced.

#### Staff Response

Staff are not recommending Option 2 for the mitigation of residential development charges. As discussed above, the economic analysis carried out by Professor Nowlan does not indicate the need for a very substantial discount to the maximum calculated residential charges. The complete exemption from water and wastewater charges incorporated in Option 2 would result in the need for water consumers to pay substantially increased water rates in order to offset a large shortfall in water and wastewater development charge revenues.

Staff have examined the specific issue of providing relief to street-level retail uses and this is discussed in Section 6.1.2 of the report. Given the difficulties in implementation and in the effective targeting DC relief, staff are not recommending an exemption for retail/commercial uses within a mixed-use residential commercial or office/commercial development.

A discussion with respect to the merits of the 4<sup>th</sup> non-residential option proposed by Mr. Rodgers is contained within section 3 of the staff report. Retail uses are the least footloose of all commercial and industrial uses, and on average, are subject to effective tax rates that are significantly lower than other commercial uses. Therefore, staff have not recommended any form of relief for retail developments.

The definition of residential gross floor area has been clarified in the proposed by-law. Residential development is subject to development charges on a per unit basis, so common areas in a residential building, such as hallways and lobbies are not subject to a development charge. The definition of non-residential gross floor area has been amended to exclude mechanical areas, loading areas and parking, both above and below grade.

Transition provisions have been expanded to include a one-year phase-in of the charge and a time-limited grandparenting provision for both residential and non-residential development.

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## Appendix D

### Economic Effects of the Calculated 2004 City of Toronto Development Charges

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May, 2004

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Project characteristics: fixed 31,200 square metres of floor space  
on a 39,000 square-metre lot (density = 0.8)

The average dwelling unit size is 260 square metres

Increase in residential development fee is \$4353 per unit;

increase in commercial development fee is \$72.87 per square metre

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Executive Summary

If the City were to implement the higher development charges calculated in the City of Toronto 2004 Development Charge Background Study (April 21, 2004) there would be some but generally minor effects on the amount and type of residential development in the City over the 2004 to 2014 period. There could be a more noticeable effect on the pattern and pace of non-residential development.

The cost of the higher charge would be borne principally by developers in the first instance but would quickly become transformed into lower prices for land being assembled or ripe for development. Thus, most of the increased development charge would be borne by the owners of developable land.

The presumption that the full increase in the development charges would or could be passed forward to new buyers and tenants is incorrect. As explained below, some amount, generally small, may be passed forward, but there are many restraints on the extent to which selling prices can be raised to recover the higher charge. Principal among these restraints is the competition that exists from the existing stock of dwellings and floor space in the City. The number of new dwelling units and amount of new non-residential floor space that is expected to be built annually over the 2004-2014 period will be only about 1 per cent of the existing stock. In addition competition from outside the City limits the ability of City developers to raise prices.

Competition from the existing stock of dwellings and space and from outside the City will be less for projects that are unique in either design or location. In the case of such projects, more of the increased charge can be passed forward to buyers, but with alternatives always present even

this ability is limited. It is likely that projects in the outer parts of the City will face more competition than those in the central city and so find it more difficult to pass on development charge increases.

The higher development charges, if implemented, are expected to raise additional revenue of between \$590 to \$680 million over the ten-year period. This amounts to a savings in property tax and user charges that I estimate to be about \$134 per City resident or \$350 per dwelling unit, and about \$4.50 per square metre of non-residential space. All taxpayers benefit, existing as well as newcomers, but the newcomers will have their benefit offset by the ability of developers to charge a higher selling or renting price that just equals this benefit. That is, competition will not limit a price increase of, on average, just this amount since it is a payment for a benefit received, namely lower property taxes and user charges. This means that, in the case of residential projects, about 9 per cent of the increase in the development charges can be passed forward to buyers with no effect on buyer demand. In the case of non-residential projects, the proportion that can be passed forward in this way is about 6 per cent.

The financial effects of a higher development charge may induce real effects in the pattern of development. A higher residential development fee can have the effect of encouraging developers to build fewer units in any one project, or to build larger units. In chapter 3, a number of plausible examples are analysed in order to help determine the likely magnitude of these effects. The conclusion from these examples is that the real effects of the higher residential charges are likely to be very small and in some cases non-existent – developers will find that their best course of action is to proceed with a project just as it was initially planned before any fee increase and to absorb the loss. As my examples show, any other decision, in many cases, will cost the developer even more. Even if the whole of the increased development charge (less the tax and user-charge benefit which can always be passed forward) is borne by the developer or landowner, its magnitude is likely to be quite small for residential projects: in the examples of chapter 3 this cost was between 1 and 5 per cent of the land value.

For the non-industrial projects, the financial effects are larger and so too will be the real effects. One example in chapter 3 shows how the increased charges could influence the mix of residential and commercial space in a mixed-use development – commercial space would be reduced and residential space increased.

With the increased non-residential fee having the possibility of reducing land values by 20 per cent or more, as the examples of chapter 3 show, perhaps the greatest real effect will come from decisions by developers or land owners not to proceed with a planned project, at least not at this time. If the existing use for some property slated for early re-development yields relatively high property value (relative that is to the anticipated value in a new use), the re-development may well be delayed. If the value of their existing use is low for some properties — so-called “soft” properties —, then the higher fee will have less of an effect on the development decisions.

Again, in unique locations, such as the central area, the possibility of passing forward to new buyers or tenants the cost of the increased fee is much higher than in other locations, so the developer will bear less of the burden and the real effects will be smaller. Also, it appears that less than half of the new non-residential floor space expected to be developed over the next ten years would be subjected to the new development fee, if implemented. This high percentage of exempt projects would of course moderate the real effects of the development charge and the



existence of exemptions would create a small bias in favour of development-charge-exempt projects, compared with the situation with no development charges.

## 1. Introduction

The current by-law governing development charges in the City of Toronto expires July 29<sup>th</sup>, 2004, and the City is considering introducing new and higher charges after this date.

A Background Study completed in April has calculated the maximum allowable new charges under the Province's *Development Charges Act* for different types of development.<sup>1</sup> These charges are based on the anticipated costs over a ten-year period, from 2004 to 2014, of various capital expenditures that are deemed necessary to maintain or reach planned urban service levels in the face of population and employment growth during this period. Allowable costs and the procedures by which they may be attributable to new development are set out in the *Development Charges Act*.

Based on estimates of development activity during the 2004-2014 period and on the capital spending plans of the City, the Background Study's calculated maximum development charges for residential dwelling units are about 2½ times the current level. For non-residential buildings, the calculated charge is \$72.87 per square metre compared with no development charge at present on these types of project.<sup>2</sup> The current and the calculated maximum charges are shown in the table on the following page.

The last column of this table shows the differences between the allowable charges and the current charges. While these differences are not a large percentage of the selling price of dwellings or non-residential space, one would like nonetheless to know who would bear the cost of this increase, if it were to be implemented, and how it might affect the amount and type of development in the City. The analysis in this report is an attempt to answer these questions.

In the next chapter, chapter 2, I discuss the sort of biases and incentives that would follow an increase in development charges. The question of who would bear the cost or enjoy the benefit of such an increase is dealt with and the relationship between the distribution of those costs and benefits and the effects on development activity is set out. Then, in chapter 3, I introduce a number of examples that help pin down the likely magnitude of the changes that would follow the introduction of higher development charges. Conclusions follow in chapter 4.

It is important to remember that what I describe is the effect of an increase in development charges, so any development changes that occur are changes with respect to the pace and pattern of development that would exist if the current level of charges were to be retained.

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1 C.N Watson and Associates, *City of Toronto 2004 Development Charge Background Study*, April 21, 2004. This will be referred to as the *Background Study*.

2 However, about 60% of new non-residential floor space developed over the 2004-2014 period would still be exempted from development charges.

| type                        | current charges<br>(per dwelling unit<br>for residential<br>projects; per square<br>metre for non-<br>residential) | calculated 2004 new<br>charges<br>(per dwelling unit<br>for residential<br>projects; per square<br>metre for non-<br>residential) | difference between<br>calculated and current |
|-----------------------------|--|---|--|
| single detached             | \$4,370  | \$11,053  | \$6,683                                      |
| two-bedroom or<br>larger    | \$2,816  | \$7,169   | \$4,353                                      |
| bachelor and<br>one-bedroom | \$1,802  | \$4,455   | \$2,653                                      |
| other multiple units        | \$3,544  | \$8,797   | \$5,253                                      |
| non-residential             | \$0  | \$72.87   | \$72.87                                      |

## 2. General Considerations

### Real effects and financial effects differentiated

The economic effects of the higher development charges described in the Introduction may be divided into two types, real effects and financial effects. In this chapter, the mechanisms by which higher development charges might have either or both sorts of effect are discussed, and the interaction between the two effects is examined. This will set the stage for a more detailed analysis in the next chapter of the likely magnitude of these effects.

Real effects of higher development charges are changes that may occur in the size or type of development activity, or in its timing as a result of the higher charges. If, for example, higher residential development charges lead to fewer dwelling units being built in Toronto over some specific time period, then that would be a real effect. Similarly, if the charges resulted in dwellings different in size from those that would otherwise be built, or in a different mix of apartments versus single-family dwellings than would occur in the absence of higher charges, then those too would be real effects. If land that would otherwise be developed for industrial use were to be used instead for residential or commercial purposes, because of possible differential effects of the development-charge increases, that too would be real effect.

By contrast, financial effects refer to changes in the value or price of assets – principally land and buildings -- or changes in the flow of revenue or costs, including rents and property taxes, that are caused by the higher development charges. Thus, higher development charges might lead to higher dwelling prices, a financial effect. Or, the profitability of a particular development project may be reduced by higher development charges. Higher development charges might also become capitalized into the market price of land soon to be assembled for development, thus lowering the price of such land. Given that revenue from development charges is typically used for projects that would otherwise still be undertaken but paid for through property taxes or other charges across

the whole City jurisdiction, then higher development charges also have the financial effect of reducing the tax or other-charge burden on existing taxpayers.

Real effects relate to how resources are used in the City and how the growth of structures, employment and population are changed from what they would otherwise be. Economists sometimes refer to these as allocative effects. Financial effects determine the distribution among people of the costs and the benefits associated with a policy such as the higher development charges. These are sometimes called distributional effects. Save only in the highly unlikely situation in which the costs and benefits are distributed equally across the whole jurisdiction, every policy will have uneven distributional implications, with some people gaining and some people losing.

Real and financial effects are linked by the fact that the financial effects encourage people to make certain decisions that in turn have real implications. So, to understand the effects on development in Toronto of higher development charges, we need to look at both types of effect.

Let's start with the possible increases in residential development charges: \$6,683 for single-detached units, \$4,353 for 2 bedroom or larger apartments, \$2,653 for 1 bedroom or studio apartments and \$5,253 for "other multiples." Relative to the market price of typical dwelling units, these are modest increases so any real or financial effects that they will have will also be modest.<sup>3</sup>

Possibility of passing forward to new buyers or tenants an increase in development charges

Whether significant or not, in the first instance these increases are charges on the developer. Faced with the prospect of reduced profitability because of the increase charges, the developer might contemplate a number of options. The first that might come to mind is to raise the selling price of the units in the project, or the equivalent rental rates, by an amount equal to the increased development charge, and it is sometimes taken to be axiomatic that this is in fact what will happen. If indeed buyers or tenants were simply to absorb such a price increases, with no change in buying or renting behaviour, then the effect of the development-charge increase would be purely financial: buyers and tenants would bear the full cost of the increase and developers would be unaffected. There would be no real effects.

The matter is not quite as simple as that, however. The ability to pass on higher development charges by raising selling or rental prices depends critically on the willingness of potential buyers and tenants to buy or rent the units at the higher prices, within the time frame that had originally been contemplated. Looking at an individual project, it would seem highly unlikely that prices could be raised with buying activity proceeding just as it otherwise would. If buyer demand were indeed unaffected by higher

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<sup>3</sup> Based on the Royal LePage survey of house prices shown in the *Background Study*, Appendix I, these increases range from 1% to 2% of average market values of dwellings in various parts of the City. For very low-priced properties the proportion could of course be higher.

prices, then it is reasonable to assume that developers would have set higher prices before the increase in development charges, in order to increase the profitability of the project.

The reality is that any attempt to recover the development-charge increase by raising selling prices for units in some given project by the full amount of the increase will result in reduced buyer interest. For each project, there is an implicit schedule of prices, number of units sold and the time within which they are sold. This schedule is beyond the control of the developer;<sup>4</sup> it depends on such things as location, the design and quality of the project and, importantly, the prices of competitive units both within and outside the City. If a developer raises the selling price of units, the outcome has to remain on this demand schedule – fewer units will be sold or the time to sell the original number of units will be increased.<sup>5</sup> Either way, passing through the increased development charge will have real effects; either the number of units brought to market will be reduced, or the rate at which units are bought and occupied will be reduced. The financial or distributive outcome of these effects will generally be that both the buyers and the developer will share in bearing the cost of the increased development charge, as I shall show in the next chapter.

There is one circumstance in which selling prices could be increased by the amount of the development-charge increase without affecting buyer interest. This is if the revenue from the development charge were to be used to provide public benefits to new owners or tenants above those that would exist in the absence of the higher development charges, and if these benefits were equivalent in value to the increase in the development charges. This, however, is not what is contemplated. The infrastructure to be paid for through the development charge is infrastructure that would have to be provided in any case in order to maintain urban service levels in the face of population and employment growth. So, the new infrastructure will exist with or without the development charges.

There will, however, be one change on the financial side. Without the charges, the new infrastructure will have to be paid for either through higher property taxes across the whole City or by means of increased user charges, or both. From the point of view of new owners or renters, the public benefits are the same no matter how paid for, whether development charges, taxes or user charges. Without the development charges, taxes and user charges on everybody would be slightly higher. With the development charge, existing and new owners and tenants will face slightly lower property taxes and user charges. Since this will benefit new as well as existing residents, the selling or renting price of new units could be increased by an amount equal to the benefit without deterring buyers. This amount would be approximately \$350 per dwelling unit if the full 2004 calculated development charges were to be implemented.<sup>6</sup> Notice that this benefit

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4 Save to the extent that it can be shifted by advertising.

5 This is related to the notion of a “pricing point” for the units in any one project. This pricing point is determined in large part by the alternatives that buyers have available to them.

6 This benefit is arrived at in the following way. According to the April *Background Study*, the additional revenue expected over the ten-year period from 2004 to 2014 with the full implementation of the calculated new rates is between \$590 and \$680 million (Executive Summary, p. xvii). This is the potential tax and user-charge savings for existing residents and landowners. Take the mid point of this range, \$635 million, and assume that the portion of this applicable to residents is approximately 60%, which is the proportion of total property tax paid by residents.

associated with lower taxes and user charges will be only a small portion of the increase in development charges because the benefit of the lower taxes and user charges will be spread across the whole City and not focused exclusively on newcomers, so the conclusion remains that any attempt to pass on the whole or a significant portion of the cost of the increased development charges in the form of higher selling or renting prices will reduce demand.

What if all developers tried to raise prices?

If, in the face of higher development charges throughout the City, all project developers decide to raise the price of new units in an attempt to recover the charge increase then the demand schedule for any given project will shift up a little, to reflect the higher price of competitive units, and this will moderate the extent to which buyer or tenant demand will be reduced.<sup>7</sup> While this collective action might indeed allow developers to pass on to buyers and tenants more of the increase than otherwise, its effect will not be large for two reasons. The first is that residential developers in Toronto are competing with projects outside the City, so higher prices even for all new residential units in Toronto will still lead to reduced buyer interest. However, the more important reason why such a collective response would have only a minimal effect is that new units also compete with existing units in the City.<sup>8</sup> This is a large market, much larger than the new-unit market. Over the ten year period to 2014, the anticipated number of new dwelling units that will be brought to the market annually is only about 1 per cent of the total stock of dwelling units at any time, so prices in the existing-unit market will play a major role in determining the price at which developers will be able to sell new units.<sup>9</sup>

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(This 60% share is somewhat arbitrary since the savings will be in both property tax and user charges.) This works out to a total benefit to residents of \$381 million, which is about \$140 per person based on the 2014 estimated population of 2,744,524, or a little more than \$350 per dwelling unit given the estimated 1,078,023 dwellings in 2014. (Population and dwelling projections are from the *Background Study*, Appendix A.) An equivalent benefit to non-residential properties may be calculated. If 40% of the increased revenue is assumed to lead to reduced property taxes and user fees for non-residential owners and tenants, this works out to approximately \$4.50 per square metre, based on an estimated 56,000,000 square metres of non-residential space anticipated in 2014 (see Schedule A-9 of Appendix A of the *Background Study*; gross area has been adjusted for demolitions).

7 It might be wondered why, if developers could beneficially raise prices after the introduction of a higher development charge they wouldn't do this before so as to maximize profit. The answer is that the developers of the new, competitive projects are in competition with each other and the price that they can sell at depends on the prices of the other units coming on to the market. The introduction of a higher development charge provides the opportunity for them to take collective action with all of the developers acting in concert to raise prices. The collective action may fall apart however if some developers decide to make their projects more competitive by not passing on any increase in the development charge. This instability of coalitions is well known from the industrial economics literature.

8 This effect is very visible today in the downtown condominium market where the supply and price of existing units is an important determinant of the price at which new units can be sold.

9 The 1 per cent average may not hold exactly for different types of dwelling for which there may be different markets, condos versus detached houses for example. But, in virtually all such markets, in the non-residential as well as the residential, the annual flow of new space will be but a small percentage of the stock of space.

Over the very long run – many decades – any slight decrease in the annual production of new dwellings will be reflected in a slightly lower stock of dwellings than would otherwise exist. This in turn will cause the market price of the then existing units to rise and so allow the price of new units similarly to rise slightly. This will be a very gradual process and the effect will be very small. For an analysis of the relationship between the stock of existing dwellings and the flow of new dwellings see my paper entitled “The Land Market: How it Works” in Lawrence B. Smith and Michael Walker (eds), *Public Property*, The Fraser Institute, 1977.

### Best developer response

By building and selling fewer units, or by building and selling the original number of units over a longer time frame, the profitability of any given project will be reduced. This reduction measures the financial cost to the developer of the increase in the development charges. In the face of increased development charges, a developer will want to minimize this reduction in profitability and so will want to consider the alternatives.

One alternative, as we have seen, is to increase the selling price of the units by the full extent of the development charge increase and accepting the reduced profitability of building and selling fewer units. At the other extreme, the developer has the option of absorbing into profits the full amount of the development charge increase. This will allow unit prices to be unchanged and will entail no change in the size of the project or the timing of the unit sales but of course it also results in reduced profitability. Between the options of raising selling prices by the full extent of the development charge increase and keeping prices unchanged lie the myriad possibilities of raising prices by less than the full amount of the development charge increase, thus leading to a smaller project size, but not as much smaller as it would be if the selling prices were to be raised by the full amount of the increase. The rational developer will choose the alternative that will result in the highest residual profit, although even this highest possible profit will still be less than it would be without the increase in development charges.

### Importance of project location

The real effects of the development-charge increases and the proportions in which the increased charges will be divided between buyers paying higher prices and developers taking reduced profits will depend to some extent on the location of the project. In areas of the City where demand for new dwellings is expected to be very aggressive – these will be areas with unique or unusual features, like the central area or the waterfront – buyers will be less inhibited by small increases in price, thus giving developers an opportunity to pass on more of the development-charge increase than otherwise. By contrast, projects in locations for which there are easy substitutes will have a more difficult time passing on the cost increase without a significant reduction in buyer interest and developers may, therefore, have to absorb most of the increase themselves. Such projects might be in outer City locations selling to buyers who are relatively indifferent between locating in the City or outside and who therefore respond sensitively to prices.

In terms of real effects, the locations with strong demand where more of the increase can be passed on to buyers or tenants will show the least reduction in the number of units produced. In less favourable locations, less of the increase will be passed on to buyers but the proportionate reduction in the number of units produced will be greater.<sup>10</sup> To the extent that lower priced units may be built in the locations most competitive with

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<sup>10</sup> Even so, the actual reduction may be negligible as I show in the next chapter.

developments outside Toronto, the possibility of a real reduction in the production of such units is greater than for uniquely located higher priced units.<sup>11</sup>

#### Capitalization in land prices

Any reduction in the profitability of development projects will only be a short-run outcome. If developers are to stay in business they must maintain their normal profit levels over the long run. The mechanism by which this will occur is the following. The reduction in developer profit margins will weaken the demand for developable properties; developers will not be willing to pay as much as before. This will lead to fall in the market price of developable land and a return to normal profitability for development activity. In essence, the portion of the higher development charges that is not borne by new buyers or tenants becomes capitalized in the value of land.

#### Possible changes in size and quality of dwelling units

The discussion so far has been focused on the decision facing the developer with respect to the number of units to build in any one project. Because the residential development charge is a charge per dwelling unit, with different charges for different types of dwelling, the higher development charges also create incentives to change the size and possibly the quality of units in a project. Suppose both the number of dwellings and their floor areas have been decided upon in the absence of the higher charge, and these have been decided in such a way that developer profits are maximized. Now a higher charge per dwelling unit is introduced. At the margin, this will make units with higher selling prices – with larger floor areas or higher quality units -- relatively more attractive and could lead to a decision to increase the size and quality of all units in a project as a way of minimizing the loss associated with the higher development charge. In the next chapter I analyze a possible scenario in which this happens.

On the financial side, an increase in the number of larger units that are built will have the effect of lowering slightly the prices per unit of floor area of these larger units; prices will rise slightly for smaller units because of the slight decrease in supply. This possible effect will be reinforced by the fact that across the whole City, as noted above, there may be a small proportionate reduction in lower priced units relative to higher priced units because of systematic locational differences between the two price categories.

The planned balance among types of units in any given project – single detached, two or more bedroom apartments, one bedroom apartments and other multiples – is not likely to be affected by the increased development charges. This is because both the current and the 2004 calculated charges are based on the average occupancy rates of these different types of dwelling, and occupancy is itself correlated with average size and average construction cost. Thus, at an average size of 260 square metres for a single detached unit, 160 square metres for a 2 bedroom, 100 square metres for a 1 bedroom and 220 for

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<sup>11</sup> The argument of this section could also be made with respect to any unusual features of a development that result in less competitive pressure from other existing or new space. For example, the unique features of the proposed “Trump Tower” will help insulate it from competitive pressures, not completely but to some extent, and so increased development charges will be able to be passed on to buyers more readily.

an “other multiple,” the potential increase in development charges per square metre for the different types of unit lies in a relatively narrow range from \$24 to \$27. Any increase in development charges should, therefore, be neutral with respect to their effects on the mix of dwellings chosen for any given project.

#### Possibility of delaying or abandoning a project

One final possible real effect should be noted. The increased development charge will reduce the profitability of any contemplated development, as I have indicated. For projects that are replacing existing high-revenue or valuable uses, this could result in the project being abandoned and the existing use retained, or at least retained for longer than envisaged. Where development is contemplated on “soft” sites – those with low revenue streams or less valuable existing uses and thus ripe for development – this will not occur, but on “harder” sites where the contemplated development is only marginally more profitable than existing uses, such a delay could occur.

#### Commercial projects

The effect of the higher development charges on commercial projects is similar to the effects on residential developments, although it is likely to be more pronounced because, at \$72.87 per square metre of floor space, the possible increase is almost three times the increase being considered for residential space, per unit of floor area. Any attempt simply to pass through the higher charges to buyers or tenants will meet with some resistance. Even if all commercial-property developers decide to try to pass on the increase, competition from outside Toronto and from the existing stock of commercial properties<sup>12</sup> will significantly constrain their ability to do so. To the extent to which developers are nonetheless able to pass on some part of the development-charge increase, the real effect will be to reduce slightly the amount of new space that buyers or tenants will absorb. As with residential projects, the opportunity to raise prices and so minimize the reduction in profit will vary from location to location in the City and with respect to any unusual or unique features of the project. Again, those properties away from the central area and in the closest competition with commercial space outside the City will find it most difficult to raise prices and a reduction in project size or number of projects is most likely in those locations. Also, some delay may occur in the development of properties already yielding a relatively high revenue stream or that have a relatively high value in their pre-development use.

#### Industrial projects

For industrial development, the same analysis applies, except that in this case competition from outside the City is very strong. Industry is typically more footloose and less wedded to City locations than residential buyers or commercial tenants, so attempts to raise prices to meet the increased development charge will be likely meet stronger buyer or tenant resistance. Industrial developers, therefore, will more likely have to absorb

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<sup>12</sup> As with residential properties, the expected annual flow of new non-residential space is, on average, only about 1 per cent of the stock of such space at any point in time. If different sub-markets are defined, the ratio of new-space flow to existing-space stock may differ from this 1 per cent average, but it always will be small.



much of the increase themselves. One consequence of this is that industrial projects will become relatively less attractive and the price of land slated for industrial development will decline more than land for other uses. Thus, to the extent that zoning or other planning considerations allow it, land may become reassigned from industrial to commercial or residential uses.

To the extent that a higher non-residential development charge reduces the pace of new floor space development, the effect over the very long run will be to raise the price of all non-residential space in the City, because the supply of such space will be less than it otherwise would be. As with dwelling units, this effect will be small and very gradual because the annual rate of new non-residential floor space development is small relative to the existing stock of such space and the effect of a higher development charge on this rate of new development is also small. Thus the annual effect on the price of the stock of non-residential space is the result of multiplying together two small proportions.

### Summary

This set of consequences of the higher development charges may now be summarized. On the financial side, buyers or renters of new residential or non-residential units may face slightly higher prices and so in this way bear some of the cost of the higher charges. Passing on the development charges will be easiest in parts of the City with relatively unusual locational features, because there is less competition from alternative locations, and most difficult in locations that face strong competition, especially competition from locations outside the City. Developers will initially bear most of the burden in the form of reduced project profitability, but this cost will ultimately come to bear on land owners in the form of lower prices for developable land. Existing and new taxpayers will benefit financially from the increased development charges through slightly lower property taxes and user charges than would otherwise occur without the increased charges. For residents, this benefit is estimated to be approximately \$350 per dwelling unit; for non-residential space, the benefit will be about \$4.50 per square metre.

The increase in the development charges is sufficiently small that real effects may exist only in the background as changes in the incentive structure and rarely make their way into actual changes in the real pattern of development in the City. To the extent that there are real changes induced by the higher charges, they will appear in the form of a slightly reduced pace of land development, especially in locations or uses where competition from outside the City is strongest, with possibly fewer dwellings and less non-industrial footage developed than otherwise. There will be a small incentive to produce somewhat larger and higher quality dwelling units of each type. It is difficult to come to any conclusion about the change in relative profitability of commercial versus residential projects, because circumstances are so varied, but it is likely some that land that might have been designated for industrial development will be developed for non-industrial uses. Projects that are planned on sites that are relatively valuable in their pre-development uses may be delayed, but again this real effect is likely to be small and would only occur where the proposed development is minimally better, at current development charges, than the alternative of keeping the property in its existing use.

### 3. Specific Examples

As I described in the previous chapter, an increase in development charges creates a number of financial effects and a set of incentives that may lead to real changes in the pattern of dwelling and floor space development, changes that is to the pattern that would otherwise occur. By looking at some examples of typical development projects, we should be able to come to some understanding of the likely magnitude of these real effects. That is the purpose of this chapter.

#### Real and financial effects on a large-scale, moderate-price residential project

I begin by looking at a project having the characteristics of a recent development in Toronto.<sup>13</sup> This is a 229-unit development on 72,900 square metres of land with a site value of approximately \$19,000,000. The average unit size is 150 square metres. Project density is 0.47 times coverage. This information along with assumptions about selling prices and development costs<sup>14</sup> are incorporated in Table 1A.<sup>15</sup>

In this example, I look at a range of possible project sizes, from 210 units to 250 units. For each number of units – each row – development cost (not including land cost or any increases in the development charge but including the current level of development charges) and total revenue from sales are estimated and shown in columns 3 and 5 respectively. Total revenue is derived from an estimate of the selling price per unit, shown in column 4, multiplied by the number of units, column 1. Column 4 is just the demand curve for these units and is assumed to be very flat but with some minimal consumer response to changing prices: a higher price will mean selling fewer units.<sup>16</sup> In spite of the higher price at which fewer units can be sold, total revenue decreases with fewer units.<sup>17</sup>

The difference between the revenue and the development cost is labeled a “residual” value and shown in column 6. It is this residual that a developer wants to maximize by contemplating various project sizes.<sup>18</sup> An estimate of the residual will also determine the maximum amount that the developer would have been willing to pay for the land, after deducting normal profit.

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13 Data relating to this project and to the project illustrated in the subsequent example are from the Policy and Research Section, City Planning Division, Toronto.

14 The cost per average unit of 150 square metres is assumed to increase slightly as the project size increases while the market price per unit is assumed to decrease slightly as the number of units in the project increases. These assumption has been used in all of the examples in order to reflect the facts that development costs per unit size will generally increase as project size increases (at least beyond some minimum size) while it is easier to sell fewer units than more units. The qualitative outcomes are not dependent on these particular assumptions although the residual numbers would obviously change if different assumptions were used.

15 This and the subsequent tables are shown together at the end of this section, beginning on p. 83.

16 This has the equivalent effect on project revenue as selling the same number of units but over a longer time period.

17 Thus identifying what, technically, is called an elastic demand curve. In this example, demand is very elastic because of strong competition from alternatives – new and old – in the market for dwellings.

18 Decisions also have to be made with respect to other variables such as type and quality of unit. In this example I am focusing on the number of units only.

As a larger project is contemplated, total revenue from sales will rise, as shown in column 5, but total project cost, column 3, also rises. Up to a certain project size, the additional revenue from building one more unit exceeds the additional cost, so a larger project is more profitable (i.e., it will yield a higher residual value). However, beyond a certain size, the additional revenue earned by building one more unit will fall short of the additional development cost. In this case, a larger project will be less profitable. The highest residual value will occur where the additional revenue from building one more unit is just equal to the additional cost of building that unit.

By looking down the rows in Table 1A, we can see that the “original” residual value (i.e., before including the effect of any increase in development charges) reaches a maximum of \$19,266,387 at 230 dwelling units, with only a slightly lower value for 229 units. This will be the originally intended development size before the application of an increased development charge and, as I’ve indicated, it corresponds to an actual recent Toronto project.<sup>19</sup>

Now introduce the increased development charge. For a two-bedroom or larger unit this will be \$4,353. The total to be paid by the developer will of course vary depending on the number of units to be built. The cost of the increase for the different project sizes is shown in column 8 headed “increase in DC.” This cost is the charge of \$4,353 multiplied by the number of units.

As I showed in the previous chapter, the introduction of a higher development charge has the beneficial effect for all residents, existing and new, of reducing the property tax or user charge burden that would otherwise exist. I estimated this to have a value of approximately \$350 per dwelling unit, so this may be capitalized in the selling price with no effect on demand. In effect, the demand curve for these units would jump up by this \$350, and this I have shown in column 7 which incorporates the “tax and user charge benefit.”<sup>20</sup>

Using the increase in the development charge and the ability to capture without affecting buyer demand the part of this charge that represents the tax and user charge benefit of the higher development charge, a revised residual may be calculated. This is shown in column 9.<sup>21</sup>

As expected, the revised residual is less than the original residual at all project sizes. The difference represents the cost to the developer<sup>22</sup> of the increased development charge, offset slightly by the jump up in the demand curve. The best developer response will be

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19 It is clear from the table that the residual value of a slightly larger or a slightly smaller project is not much different from the maximum residual. This will generally be the case with respect to projects of this sort and, by entertaining slightly different views about costs and likely selling prices, any two developers could decide on project sizes that differed somewhat.

20 Although the full benefit of \$350 per dwelling would be fully realized only by 2014 and would be less in earlier years, I have included the full effect in all of the examples.

21 Column 9 is derived by multiplying the new demand schedule, column 7, by the number of units, column 1, and subtracting both the original development cost, column 2, and the increase in development-charge fees, column 8.

22 Or to the landowner if the land has not yet been bought by a developer. See below for more comment on this matter.

to maximize this revised residual, which, as may be seen, occurs again at 230 units with a value of \$18,345,697. In this case, any attempt to pass on to buyers any amount more than the \$350 tax benefit per dwelling will be met with buyer resistance: the number of units sold would go down (or the length of time to sell go up) and revenue fall. Development costs for a smaller project would of course also fall, but not by as much as the fall in revenues. We know this because the revised residual value falls away on either side of the optimum 230 units.

Just to pin this down, suppose the developer contemplates increasing the selling price of each unit by \$2,000 (in addition to the \$350 tax and user-charge benefit) in order to recoup at least part of the increased development fee. This would mean bringing the units on to the market at \$300,350 each instead of the original best price of \$298,000. As may be seen from the demand schedule in column 7, this higher price will reduce demand from 230 units to 210 units and lower the revised residual from its best value of \$18,345,697 to \$18,059,370, a drop of \$286,327. A rational developer will not want to lose this amount and so will keep selling prices at the level that generates the highest revised residual value, \$298,350 in this case.

The higher development charge does introduce an incentive to decrease the size of the project, but in this case the incentive is so small that in fact there is no change in the best project size. There are, in other words, no real effects; the only effects are financial. The residual has fallen by \$920,690 or approximately 5 per cent of the original value. If the land for this project had already been assembled and was owned by the project developer before the increased development charges, then this person will bear the burden of the increase. Project profits will be less.

#### Effect on land value

Perhaps, however, the land had not yet come to be owned by the final developer. In this case, the revised residual, less required profit, will represent the maximum that the final developer will be willing to pay for the land. The introduction of the higher development charge has clearly reduced this amount by 5 per cent or so. Thus, the current owner of the land, whether the final developer or not, will come to bear a substantial portion of the higher development fee, \$920,690 out of the increased charge of \$1,001,190 shown in column 8.<sup>23</sup>

Notice that the 5 per cent reduction in land value represents the maximum possible financial burden on the developer or landowner. An existing owner, including possibly the final developer, may decide that at a 5 per cent lower price or value for this particular land, some alternative use would be more valuable. And so the land would get used in some way that yielded a value higher than the revised residual and the loss occasioned by the increase in the development charge would be less. Notice that, if this were to occur,

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<sup>23</sup> The remainder of the increased fee is borne by the buyer or renter in the form of the \$350 increase in the price of a unit and is offset by the benefit of lower taxes and user charges.

there would indeed then a real effect. The original project would not be built but some other use – possibly a pre-existing use – would replace it.<sup>24</sup>

#### Sensitivity to higher development charges

The higher development charge has indeed introduced an incentive to produce projects with fewer dwelling units but in the case of this first example the effect has been so small that in fact no change has occurred. It is interested to ask just how much of an increase would be necessary to produce the real effect of a smaller project. In Table 1B provides an answer. An increase in the development charge of \$15,000 would be needed before the changed incentives lead to a 5-unit reduction in the size of the project, from 230 units to 225 units.

With the various columns having the same information as in Table 1A, we see, by looking at the revised residual in column 9 of Table 1B, that the residual reaches its maximum of \$15,903,950 at a project size of 225 units. Notice that the selling price has risen by almost \$1,000 from the price that a unit would have sold for in the original project, from \$298,000 (column 4) with a 230-unit project to \$298,850 (column 7) with a 225-unit project. Of this, \$350 represents the tax and user-charge benefit; the remaining \$500 is a measure of the financial burden of the higher development charge that the new buyers or tenants will bear.

What is notable about the example shown in Table 1B is how much greater than the 2004 calculated development fee a development charge would have to be before it induced noticeable real effects, at least with respect to this particular project.

In the above example, although a small incentive to downsize the project was introduced by the increased development charge of \$4,353, the incentive was not strong enough to induce any real effects. This is not a completely general result, as the next example shows.

#### A second example with higher-price, larger units

This second example is also drawn from a recent project in Toronto. This project consists of larger, more luxurious units having an average size of 260 square metres. The project was built to a density of 0.80 on 37,727 square metres of land having an estimated site value of approximately \$25 million. The developer decided to build 116 units.

These essential details are captured in Table 2A along with reasonable assumptions about selling prices and development costs. Possible configurations from 110 units to 118 units are shown. The maximum residual value of a little over \$24 million, shown in column 6, is reached at a project size of 114 units. Thus, the site value – the residual value less developer profit – and the size of the project closely match the project described in the preceding paragraph.

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<sup>24</sup> This will likely not occur with only a 5 per cent loss in value but it may be more likely in the case of non-residential developments which, as I shall show, may show considerably higher proportionate losses in residual value.

Like the apartments in the previous example, these could attract an increase in the development charge of up to \$4,353. The total cost of an increase of this magnitude for each project size is shown in column 8. Column 7, as in Tables 1A and 1B, shows the selling price or demand curve with the property tax and user-charge benefit of \$350 included. The revised residual in the face of a development charge increase is shown in the final column.

In this case, the incentive to build fewer units which is created by the higher development charge does in fact lead to an optimal residual value of \$23,773,141 at a project size of 113 units, smaller by one unit from the original best size. There is a real effect but it is small. As well, the financial cost to the developer (or to landowners if the land is not yet assembled and owned by the developer) is also small: the residual has fallen by \$452,947, less than a 2 per cent reduction in the original residual value. Thus, it is reasonable to conclude that the higher development charge would have little effect on the decision to proceed or not with the originally conceived project, save that it may be slightly smaller than originally envisaged.

Notice that the developer's best decision has been to raise the originally planned price by \$1,000 (plus the \$350), thus passing on to the buyers or tenants part of the cost of the increased fee. It is this increase in price that has dropped demand from 114 units to 113 units.

A second look at the sensitivity of real effects to the level of the development charge

It is interesting to look again at the magnitude of the development charge increase that would be needed to cause any further reduction in project size. This is examined in Table 2B, where an increased development charge of \$10,000 is introduced. This magnitude of increase would take the best sized project from 114 units down to 111 units, thus illustrating the fact that the greater the increase in developer fees the greater the incentive to reduce the size of a planned project.

A possible upward shift in the demand curve

This example may be used to illustrate another consideration discussed in chapter 2. Suppose that the location of this project and the type of dwelling unit envisaged were sufficiently unusual that there is little competition from the existing stock of housing; and suppose further that developers of competitive new projects will, like the developer of this project, take advantage of this to try to raise prices to recoup as much as possible of the increased development charge. Table 2C illustrates the possible outcome with an increase in the price of all competitive units in other new projects of \$2,000 (not including the \$350 increase justified by the tax and user-charge benefit). Because of the general rise in market price for this type of unit, the demand curve for units in any one project, like the one illustrated in Table 2C, will jump up by roughly the same amount. This is shown in column 7. Higher prices still lead to a reduction in demand, as in column 4, but now the whole schedule is \$2,000 higher (plus the \$350).

The highest revised residual value is now \$23,999,141, again at 113 units. This is less than 1 per cent below the original residual value. The buyers or tenants of the new units

have absorbed the rest of the increased development charge through higher prices of \$3,000 per dwelling unit.<sup>25</sup>

As much as possible, this of course is what developers would like to have happen, but, as I indicated in the previous chapter, competition from existing units as well as competition from projects outside the City will constrain greatly the extent to which there will be any upward shift in the demand curve. In my view, the situation depicted in Table 2C is very unlikely to occur.

A third residential example with variable dwelling sizes

As a final residential example, I turn to a project illustrated in Tables 3A and 3B. This does not represent any particular existing development but it could apply to many projects. In this example, I assume that the project density is a constant 3 times coverage before and after the introduction of a higher development charge. This perhaps is the maximum allowable density for this site and it maximizes the residual project value both before and after the increased fee.

To be specific, in this case 7,500 square metres of residential floor space are built on a 2,500 square metre lot. The variable now being looked at is the best dwelling size and therefore the best number of dwellings in the project. Alternatives are shown in columns 1 and 2. In each case, the number of dwellings times the size of each is equal to the constant floor area of the project. Selling prices in column 3 are shown as prices per square metre, with the price rising as the project has fewer but larger and perhaps more luxurious units. Construction costs also rise, column 5, because of higher quality, larger units. The best number and size before the introduction of the higher development fee is shown by the maximum original residual value. This occurs at 47 dwellings with an average size of 160 square metres.

Now the higher development fee is introduced. Columns 7 and 8 show the effect on selling price and the cost of the increased development charge. As discussed before, the fact that the development charge is levied on each unit no matter what the size<sup>26</sup> creates an incentive to build larger units. In this case, with the maximum increase of \$4,353, we can see that, although the revised residual falls it still reaches a maximum at 47 units of 160 square metres each. Thus, although the incentive exists it is so small that it does not affect the decision in this case. Financially, the developer or owner has lost \$189,047 in value, or 4 per cent of the original residual value.

How big would the increase in the development charge have to be to influence the decision on number and size of units? This is answered in Table 3B. An increase in the development charge of \$10,000 would create a sufficient incentive to reduce the number of units from 47 to 42 while increasing their average size from 160 to 180 square metres.

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25 Of this \$3,000, \$2,000 represents the assumed upward shift in the demand curve of \$2,000. The rest reflects the ability of the developer to charge a higher price as supply is reduced.

26 Assuming they are all at least two bedrooms in size.

The general conclusion that may be drawn from this look at specific residential projects is that the real effects of the possible increase in the development charge are very likely to be small and in many cases may be non-existent. Without real effects, the size and type of planned projects is unchanged. In our examples, the original residual value has been reduced by amounts from 1 per cent to 5 per cent. This would represent the loss to a developer who had assembled and now owned the land on which the project will be built. Alternatively, it represents the likely reduction in land values for land designated for residential development or redevelopment.

### Non-residential projects

I turn now for a brief look at the effect of higher development charges on non-residential developments. As discussed in chapter 2, the calculated 2004 charge per square metre for non-residential space, at \$72.87, all of which is an increase over the current charge of zero, is considerable higher than the average residential increase per square metre. In chapter 2, I estimated that the residential charge per square metre ranged between \$24 and \$27 for average sized residential units of different types. This is about one-third the increase in the non-residential charge, so we would expect the real effects to be somewhat greater.

The non-residential development fee will set up an incentive to favour residential over non-residential space,<sup>27</sup> where the zoning or other planning considerations allow some substitution between the two. The magnitude and result of this incentive may be looked at through the use of an example.

Start with a project that is proposed to be a mixture of residential and commercial uses. Table 4 illustrates such a project: a proposed 31,200 square metres of floor space on a 39,000 square-metre lot for a density of 0.8. Both dwelling units and commercial space are contemplated within the project, with the dwelling units having an average size of 260 square metres. So that we may focus on the effect of the increased development fees, I assume that the density of the project remains unchanged in the face of increased fees. Thus, any space not developed as residential space will be commercial space. The division between residential and commercial space is shown in columns 2 and 3 of Table 4. Column 1 shows the number of dwelling units associated with each amount of residential space.

Table 4 also shows some plausible cost and revenue figures that allow us to determine what mix of residential and commercial space would be optimal before the increase in development charges. As the number of residential units rises, the selling price of each will have to fall, as shown in column 4. Also, as the amount of commercial space rises, its selling price will also fall, see column 5. These schedules reflect demand that is considerably but not totally elastic.

From the selling prices and the amount of space assigned to each use, total revenue may be calculated, column 6. Column 7 shows the total project cost, this time on the

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<sup>27</sup> As everywhere in this report, this means an incentive relative to a situation with no change in the development charges.



assumption that the cost is constant no matter what the division between residential and commercial uses.<sup>28</sup> The difference between the revenue and cost for each mix of development is the residual value before the introduction of higher development charges and is shown in column 8.

The highest residual reached is \$23,000,000 which occurs with a project having 80 residential units and 10,400 square metres of commercial floor space.

Now introduce the possible increase in development fees, \$4,353 for each dwelling unit and \$72.87 for each square metre of commercial space. The increased fee revenue associated with each type of use is shown in columns 9 and 10. Subtracting the sum of these costs from the original residual value, and adjusting the residual to take into account on selling prices of the tax and user-charge benefits described in chapter 2, yields the revised residual values shown in column 11.

The highest revised residual is \$21,996,444, a 4.4 per cent decrease from the original best value. There has as well been a real effect. The best mix of residential versus commercial space now entails more residential units and less commercial space. The number of dwelling units has increased from 80 to 90 and the amount of commercial floor space has decreased from 10,400 square metres to 7,800. This real effect is exactly what we would expect to happen as the developer of this project seeks to maximize profit by reducing the amount of floor space that would be subject to the higher increase in development charges.

To continue with the possible effect of development charges on commercial space, consider a project to build 20,000 square metres of floor space on a 5,000 square metre lot. Suppose that development costs, excluding the price of land, are \$1,800 per square metre and the expected selling price is \$2,200 per square metre. The residual value would therefore be \$8,000,000. This would be an estimate of the value of the land plus developer profit.

Now suppose a \$72.87 per square metre development fee is introduced. Development cost rises by 4 per cent to \$1,872.87 and the residual (for the same size project) falls to \$6,542,600. This is a drop of a little over 18 per cent in value, much higher than the loss in residual value that we have seen in the residential examples.<sup>29</sup>

The same exercise can be undertaken with respect to a proposed industrial development. Suppose a 5,000 square metre industrial lot is scheduled to be developed with 4,000 square metres of floor space. Development costs (not including land) are \$1,000 per square metre. The space can be sold for \$1,350 a square metre. The residual value is therefore \$1,400,000. Introduce a development fee of \$72.87 per square metre and the residual drops by 21 per cent to \$1,108,520.

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<sup>28</sup> This is a reasonable but not necessary assumption. The example could also have shown different commercial-space and residential-space costs, but that seemed an unnecessary complication.

<sup>29</sup> In this and the next example, I have not taken into account the ability to raise prices by the amount of the tax-saving benefit, \$4.50 per square metre. If I had, the residual loss would have been marginally less.

As I've argued, the ability of a developer to push some of this increased development fee forward to buyers or tenants is limited, especially in locations or with building types that are strongly competitive with projects outside the City. In central-area locations that have less outside competition, the ability to press the charge forward in higher occupancy costs is greater but still limited. So, project profitability and land values for non-residential land will fall by amounts that could reach perhaps 20 per cent, with higher percentages in the outer parts of the City and lower percentages in the central parts.

What will be the effects of this reduced profitability and lower land values? As the example of Table 4 shows, one result could be the substitution of residential floor space for non-residential space, if this is permitted by by-laws or planning considerations. There is clearly a desirable aspect to this switch in that it helps promote higher residential densities in the City but of course it comes at the expense of non-residential space.

Along with this effect, some projects are likely to be abandoned or at least postponed. This would be a rational response in cases where the existing use of the land, i.e., the pre-development use, yields a value close to the value associated with the contemplated development. This is an understandable response given that the introduction of a fee on new projects but not on existing uses makes existing uses relatively more attractive than they were. The pace of new development would thus slow and gross new floor space would be lower than before the fee increase; however the effect on net floor space would be less since existing uses would be retained.

It is hard to put a figure on the expected real effects that I have just been discussing. To do so would require a detailed look at possible development sites and an estimation of the value of these sites in their existing use. If the sites are vacant and generating little revenue, then the effect of the higher development charge may be mostly financial – the land will have become worth less – and the real effect will be minimal. Also, the large number of non-residential projects that would be exempted from any development charge will reduce the real impact of the calculated charge.<sup>30</sup>

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<sup>30</sup> Based on numbers in the *Background Study*, I estimate that only about 2,200,000 square metres of new non-residential floor space between 2004 and 2014 would be subjected to the calculated development charge if it were to be implemented. This is only 40 per cent of the expected gross floor area of new non-residential space over the ten years. By building type, about 45% of new commercial space, 39% of new industrial space and 16% of new institutional space would be subject to the development charge. (These calculations are based on the estimates of revenue associated with the non-residential development charge given in the *Background Study* along with the estimates of expected gross development given in Appendix A of that study.)

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 1A**  
**Effect of an Increase in the Residential Development Charge of \$4,353**  
**Two Bedroom Units Averaging 150 Square Metres Each**

| 1     | 2             | 3                                       | 4                               | 5                      | 6                       | 7   | 8              | 9                |
|-------|---------------|---|---------------------------------|------------------------|-------------------------|---|----------------|------------------|
| units | cost per unit | total cost not including increase in DC | original selling price per unit | original total revenue | original residual value | selling price including tax and user charge benefit | increase in DC | revised residual |
| 210   | \$ 210,000    | \$ 44,100,000                           | \$ 300,000                      | \$ 63,000,000          | \$ 18,900,000           | \$ 300,350  | \$ 914,130     | \$ 18,059,370    |
| 215   | \$ 211,050    | \$ 45,375,750                           | \$ 299,500                      | \$ 64,392,500          | \$ 19,016,750           | \$ 299,850  | \$ 935,895     | \$ 18,156,105    |
| 220   | \$ 212,105    | \$ 46,663,155                           | \$ 299,000                      | \$ 65,780,000          | \$ 19,116,845           | \$ 299,350  | \$ 957,660     | \$ 18,236,185    |
| 225   | \$ 213,166    | \$ 47,982,300                           | \$ 298,500                      | \$ 67,162,500          | \$ 19,200,200           | \$ 298,850  | \$ 979,425     | \$ 18,299,525    |
| 228   | \$ 213,805    | \$ 48,747,602                           | \$ 298,200                      | \$ 67,989,600          | \$ 19,241,998           | \$ 298,550  | \$ 992,484     | \$ 18,329,314    |
| 229   | \$ 214,019    | \$ 49,010,369                           | \$ 298,100                      | \$ 68,264,900          | \$ 19,254,531           | \$ 298,450  | \$ 996,837     | \$ 18,337,844    |
| 230   | \$ 214,233    | \$ 49,273,613                           | \$ 298,000                      | \$ 68,540,000          | \$ 19,266,387           | \$ 298,350  | \$ 1,001,190   | \$ 18,345,697    |
| 231   | \$ 214,662    | \$ 49,586,921                           | \$ 297,900                      | \$ 68,814,900          | \$ 19,228,079           | \$ 298,250  | \$ 1,005,543   | \$ 18,303,396    |
| 232   | \$ 215,091    | \$ 49,901,086                           | \$ 297,800                      | \$ 69,089,600          | \$ 19,188,514           | \$ 298,150  | \$ 1,009,896   | \$ 18,259,818    |
| 235   | \$ 216,381    | \$ 50,849,637                           | \$ 297,500                      | \$ 69,912,500          | \$ 19,062,863           | \$ 297,850  | \$ 1,022,955   | \$ 18,122,158    |
| 240   | \$ 218,545    | \$ 52,450,859                           | \$ 297,000                      | \$ 71,280,000          | \$ 18,829,141           | \$ 297,350  | \$ 1,044,720   | \$ 17,868,421    |
| 245   | \$ 220,731    | \$ 54,079,021                           | \$ 296,500                      | \$ 72,642,500          | \$ 18,563,479           | \$ 296,850  | \$ 1,066,485   | \$ 17,582,744    |
| 250   | \$ 222,938    | \$ 55,734,502                           | \$ 296,000                      | \$ 74,000,000          | \$ 18,265,498           | \$ 296,350  | \$ 1,088,250   | \$ 17,264,748    |

Conclusion: The increased charge of \$4,353 per unit will have only a minimal or no effect on the optimum number of units in a project.

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 1B**  
**Effect of an Increase in the Residential Development Charge of \$15,000**  
**Two Bedroom Units Averaging 150 Square Metres Each**

| 1     | 2             | 3                                       | 4                               | 5                      | 6                       | 7   | 8              | 9                |
|-------|---------------|---|---------------------------------|------------------------|-------------------------|---|----------------|------------------|
| units | cost per unit | total cost not including increase in DC | original selling price per unit | original total revenue | original residual value | selling price including tax and user charge benefit | increase in DC | revised residual |
| 210   | \$ 210,000    | \$ 44,100,000                           | \$ 300,000                      | \$ 63,000,000          | \$ 18,900,000           | \$300,350   | \$3,150,000    | \$15,823,500     |
| 215   | \$ 211,050    | \$ 45,375,750                           | \$ 299,500                      | \$ 64,392,500          | \$ 19,016,750           | \$299,850   | \$3,225,000    | \$15,867,000     |
| 220   | \$ 212,105    | \$ 46,663,155                           | \$ 299,000                      | \$ 65,780,000          | \$ 19,116,845           | \$299,350   | \$3,300,000    | \$15,893,845     |
| 225   | \$ 213,166    | \$ 47,962,300                           | \$ 298,500                      | \$ 67,162,500          | \$ 19,200,200           | \$298,850   | \$3,375,000    | \$15,903,950     |
| 228   | \$ 213,805    | \$ 48,747,602                           | \$ 298,200                      | \$ 67,989,600          | \$ 19,241,998           | \$298,550   | \$3,420,000    | \$15,901,798     |
| 229   | \$ 214,019    | \$ 49,010,369                           | \$ 298,100                      | \$ 68,264,900          | \$ 19,254,531           | \$298,450   | \$3,435,000    | \$15,899,681     |
| 230   | \$ 214,233    | \$ 49,273,613                           | \$ 298,000                      | \$ 68,540,000          | \$ 19,268,387           | \$298,350   | \$3,450,000    | \$15,896,887     |
| 231   | \$ 214,662    | \$ 49,586,821                           | \$ 297,900                      | \$ 68,814,900          | \$ 19,228,079           | \$298,250   | \$3,465,000    | \$15,843,929     |
| 232   | \$ 215,091    | \$ 49,901,086                           | \$ 297,800                      | \$ 69,089,600          | \$ 19,188,514           | \$298,150   | \$3,480,000    | \$15,789,714     |
| 235   | \$ 216,381    | \$ 50,849,637                           | \$ 297,500                      | \$ 69,912,500          | \$ 19,062,863           | \$297,850   | \$3,525,000    | \$15,620,113     |
| 240   | \$ 218,545    | \$ 52,450,859                           | \$ 297,000                      | \$ 71,280,000          | \$ 18,829,141           | \$297,350   | \$3,600,000    | \$15,313,141     |
| 245   | \$ 220,731    | \$ 54,079,021                           | \$ 296,500                      | \$ 72,642,500          | \$ 18,563,479           | \$296,850   | \$3,675,000    | \$14,974,229     |
| 250   | \$ 222,938    | \$ 55,734,502                           | \$ 296,000                      | \$ 74,000,000          | \$ 18,265,498           | \$296,350   | \$3,750,000    | \$14,602,998     |

Conclusion: It takes a substantially higher increase in the development charge to produce a noticeable reduction in the project size.

Appendix D

Economic Effects of the Calculated 2004 City of Toronto Development Charges

Table 2A  
Effect of an Increase in the Residential Development Charge of \$4,353  
Three Bedroom Units Averaging 260 Square Metres Each

| 1     | 2             | 3                                       | 4                               | 5                      | 6                       | 7   | 8              | 9                |
|-------|---------------|---|---------------------------------|------------------------|-------------------------|---|----------------|------------------|
| units | cost per unit | total cost not including increase in DC | original selling price per unit | original total revenue | original residual value | selling price including tax and user charge benefit | increase in DC | revised residual |
| 110   | \$435,000     | \$47,850,000                            | \$655,000                       | \$72,050,000           | \$24,200,000            | \$655,350   | \$478,830      | \$23,759,670     |
| 111   | \$435,870     | \$48,381,570                            | \$654,000                       | \$72,594,000           | \$24,212,430            | \$654,350   | \$483,183      | \$23,768,097     |
| 112   | \$436,742     | \$48,915,075                            | \$653,000                       | \$73,136,000           | \$24,220,925            | \$653,350   | \$487,536      | \$23,772,589     |
| 113   | \$437,615     | \$49,450,520                            | \$652,000                       | \$73,676,000           | \$24,225,480            | \$652,350   | \$491,889      | \$23,773,141     |
| 114   | \$438,490     | \$49,987,912                            | \$651,000                       | \$74,214,000           | \$24,226,088            | \$651,350   | \$496,242      | \$23,769,746     |
| 115   | \$439,367     | \$50,527,255                            | \$650,000                       | \$74,750,000           | \$24,222,745            | \$650,350   | \$500,595      | \$23,762,400     |
| 116   | \$440,246     | \$51,068,556                            | \$649,000                       | \$75,284,000           | \$24,215,444            | \$649,350   | \$504,948      | \$23,751,096     |
| 117   | \$441,127     | \$51,611,819                            | \$648,000                       | \$75,816,000           | \$24,204,181            | \$648,350   | \$509,301      | \$23,735,830     |
| 118   | \$442,009     | \$52,157,052                            | \$647,000                       | \$76,346,000           | \$24,188,948            | \$647,350   | \$513,654      | \$23,716,594     |

Conclusion: Again, the effect of the possible increase in the development charge has a minimal impact on the optimum project size.

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 2B**  
**Effect of an Increase in the Residential Development Charge of \$10,000**  
**Three Bedroom Units Averaging 260 Square Metres Each**

| 1     | 2             | 3                                       | 4                               | 5                      | 6                       | 7   | 8              | 9                |
|-------|---------------|---|---------------------------------|------------------------|-------------------------|---|----------------|------------------|
| units | cost per unit | total cost not including increase in DC | original selling price per unit | original total revenue | original residual value | selling price including tax and user charge benefit | increase in DC | revised residual |
| 110   | \$435,000     | \$47,850,000                            | \$655,000                       | \$72,050,000           | \$24,200,000            | \$655,350   | \$1,100,000    | \$ 23,138,500    |
| 111   | \$435,870     | \$48,381,570                            | \$654,000                       | \$72,594,000           | \$24,212,430            | \$654,350   | \$1,110,000    | \$ 23,141,280    |
| 112   | \$436,742     | \$48,915,075                            | \$653,000                       | \$73,136,000           | \$24,220,925            | \$653,350   | \$1,120,000    | \$ 23,140,125    |
| 113   | \$437,615     | \$49,450,520                            | \$652,000                       | \$73,676,000           | \$24,225,480            | \$652,350   | \$1,130,000    | \$ 23,135,030    |
| 114   | \$438,490     | \$49,987,912                            | \$651,000                       | \$74,214,000           | \$24,226,088            | \$651,350   | \$1,140,000    | \$ 23,125,988    |
| 115   | \$439,367     | \$50,527,255                            | \$650,000                       | \$74,750,000           | \$24,222,745            | \$650,350   | \$1,150,000    | \$ 23,112,985    |
| 116   | \$440,246     | \$51,068,556                            | \$649,000                       | \$75,284,000           | \$24,215,444            | \$649,350   | \$1,160,000    | \$ 23,096,044    |
| 117   | \$441,127     | \$51,611,819                            | \$648,000                       | \$75,816,000           | \$24,204,181            | \$648,350   | \$1,170,000    | \$ 23,075,131    |
| 118   | \$442,009     | \$52,157,052                            | \$647,000                       | \$76,346,000           | \$24,188,948            | \$647,350   | \$1,180,000    | \$ 23,050,248    |

Conclusion: A higher increase of \$10,000, just by way of example, will still only reduce the project size by 3 units.

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 2C**  
**Effect of an Increase in the Residential Development Charge of \$4,353 and with a Demand Shift of \$2,000 per Unit**  
**Three Bedroom Units Averaging 260 Square Metres Each**

| 1     | 2             | 3                                       | 4                               | 5                      | 6                       | 7   | 8              | 9                |
|-------|---------------|---|---------------------------------|------------------------|-------------------------|---|----------------|------------------|
| units | cost per unit | total cost not including increase in DC | original selling price per unit | original total revenue | original residual value | selling price including tax and user charge benefit | increase in DC | revised residual |
| 110   | \$435,000     | \$47,850,000                            | \$655,000                       | \$72,050,000           | \$24,200,000            | \$657,350   | \$478,890      | \$ 23,979,670    |
| 111   | \$435,870     | \$48,381,570                            | \$654,000                       | \$72,594,000           | \$24,212,430            | \$656,350   | \$483,183      | \$ 23,990,087    |
| 112   | \$436,742     | \$48,915,075                            | \$653,000                       | \$73,136,000           | \$24,220,925            | \$655,350   | \$487,536      | \$ 23,996,589    |
| 113   | \$437,615     | \$49,450,520                            | \$652,000                       | \$73,676,000           | \$24,225,480            | \$654,350   | \$491,889      | \$ 23,999,141    |
| 114   | \$438,490     | \$49,987,912                            | \$651,000                       | \$74,214,000           | \$24,226,088            | \$653,350   | \$496,242      | \$ 23,997,746    |
| 115   | \$439,367     | \$50,527,255                            | \$650,000                       | \$74,750,000           | \$24,222,745            | \$652,350   | \$500,595      | \$ 23,992,400    |
| 116   | \$440,246     | \$51,068,556                            | \$649,000                       | \$75,284,000           | \$24,215,444            | \$651,350   | \$504,948      | \$ 23,983,096    |
| 117   | \$441,127     | \$51,611,819                            | \$648,000                       | \$75,816,000           | \$24,204,181            | \$650,350   | \$509,301      | \$ 23,969,890    |
| 118   | \$442,009     | \$52,157,052                            | \$647,000                       | \$76,346,000           | \$24,188,948            | \$649,350   | \$513,654      | \$ 23,952,594    |

Conclusion: The demand curve shift still entails a slightly lower project but it results in a much larger proportion of the increased development charge being pushed forward on to the buyers.

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 3A**  
Effect of an Increase in the Residential Development Charge of \$4,353 with Constant Density  
Constant Density of 3-times Coverage: 7500 Square Metres of Floor Space on a 2500 Square Metre Lot

| 1                   | 2                     | 3                                | 4                      | 5                       | 6                       | 7   | 8              | 9                |
|---------------------|-----------------------|----------------------------------|------------------------|-------------------------|-------------------------|---|----------------|------------------|
| Number of dwellings | dwelling size (sq.m.) | original selling price per sq.m. | original total revenue | total construction cost | original residual value | selling price per sq.m. including tax benefit | increase in DC | residual with DC |
| 75                  | 100                   | \$2,000                          | \$15,000,000           | \$11,250,000            | \$3,750,000             | \$2,004                                       | \$326,475      | \$3,453,525      |
| 63                  | 120                   | \$2,100                          | \$15,750,000           | \$11,700,000            | \$4,050,000             | \$2,103                                       | \$272,063      | \$3,800,438      |
| 54                  | 140                   | \$2,205                          | \$16,537,500           | \$12,285,000            | \$4,252,500             | \$2,208                                       | \$233,196      | \$4,041,804      |
| 47                  | 160                   | \$2,315                          | \$17,364,375           | \$13,022,100            | \$4,342,275             | \$2,317                                       | \$204,047      | \$4,153,228      |
| 42                  | 180                   | \$2,431                          | \$18,232,594           | \$13,933,647            | \$4,298,947             | \$2,433                                       | \$181,375      | \$4,132,572      |
| 38                  | 200                   | \$2,553                          | \$19,144,223           | \$15,187,675            | \$3,956,548             | \$2,555                                       | \$163,238      | \$3,808,311      |
| 34                  | 220                   | \$2,680                          | \$20,101,436           | \$16,706,443            | \$3,394,992             | \$2,682                                       | \$148,398      | \$3,261,594      |

Conclusion: The increased charge of \$4,353 has minimal or no effect on the number of units to built in a constant-density project.



Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

Table 3B  
Effect of an Increase in the Residential Development Charge of \$10,000 with Constant Density  
Constant Density of 3-times Coverage: 7500 Square Metres of Floor Space on a 2500 Square Metre Lot

| 1                   | 2                     | 3                                | 4                      | 5                       | 6                       | 7   | 8              | 9                |
|---------------------|-----------------------|----------------------------------|------------------------|-------------------------|-------------------------|---|----------------|------------------|
| number of dwellings | dwelling size (sq.m.) | original selling price per sq.m. | original total revenue | total construction cost | original residual value | selling price per sq.m. including tax benefit | increase in DC | residual with DC |
| 75                  | 100                   | \$2,000                          | \$15,000,000           | \$11,250,000            | \$3,750,000             | \$2,004                                       | \$750,000      | \$3,030,000      |
| 63                  | 120                   | \$2,100                          | \$15,750,000           | \$11,700,000            | \$4,050,000             | \$2,103                                       | \$625,000      | \$3,447,500      |
| 54                  | 140                   | \$2,205                          | \$16,537,500           | \$12,285,000            | \$4,252,500             | \$2,208                                       | \$535,714      | \$3,739,286      |
| 47                  | 160                   | \$2,315                          | \$17,364,375           | \$13,022,100            | \$4,342,275             | \$2,317                                       | \$468,750      | \$3,888,525      |
| 42                  | 180                   | \$2,431                          | \$18,232,594           | \$13,933,647            | \$4,298,947             | \$2,433                                       | \$416,667      | \$3,897,280      |
| 38                  | 200                   | \$2,553                          | \$19,144,223           | \$15,187,675            | \$3,956,548             | \$2,555                                       | \$375,000      | \$3,596,548      |
| 34                  | 220                   | \$2,680                          | \$20,101,436           | \$16,706,443            | \$3,394,992             | \$2,682                                       | \$340,909      | \$3,069,083      |

Conclusion: If the increase in the development charge were as high as \$10,000, then there would be an incentive to build fewer but larger units in a constant-density project.

Economic Effects of the Calculated 2004 City of Toronto Development Charges Appendix D

**Table 4**  
**Effect of Higher Development Charges on a Mixed Residential/Commercial Project**

Project characteristics: fixed 31,200 square metres of floor space on a 39,000 square-metre lot (density = 0.8)  
The average dwelling unit size is 260 square metres  
Increase in residential development fee is \$4353 per unit; increase in commercial development fee is \$72.87 per square metre

| 1                        | 2                                 | 3                                | 4                               | 5   | 6             | 7            | 8                       | 9                          | 10                        | 11                     |
|--------------------------|-----------------------------------|----------------------------------|---------------------------------|---|---------------|--------------|-------------------------|----------------------------|---------------------------|------------------------|
| number of dwelling units | amount of residential floor space | amount of commercial floor space | selling price per dwelling unit | selling price for commercial space per square metre | total revenue | total cost   | original residual value | increase in residential DC | increase in commercial DC | revised residual value |
| 70                       | 18200                             | 13000                            | \$715,000                       | \$2,700   | \$65,150,000  | \$82,400,000 | \$22,750,000            | \$304,710                  | \$947,310                 | \$21,580,990           |
| 80                       | 20800                             | 10400                            | \$710,000                       | \$2,750   | \$58,400,000  | \$62,400,000 | \$23,000,000            | \$348,240                  | \$757,848                 | \$21,968,712           |
| 90                       | 23400                             | 7800                             | \$705,000                       | \$2,800   | \$65,290,000  | \$62,400,000 | \$22,890,000            | \$391,770                  | \$568,366                 | \$21,996,444           |
| 100                      | 26000                             | 5200                             | \$700,000                       | \$2,850   | \$74,820,000  | \$62,400,000 | \$22,420,000            | \$435,300                  | \$378,924                 | \$21,664,176           |
| 110                      | 28600                             | 2600                             | \$695,000                       | \$2,900   | \$83,990,000  | \$62,400,000 | \$21,590,000            | \$478,830                  | \$189,462                 | \$20,971,908           |
| 120                      | 31200                             | 0                                | \$690,000                       | n.a.  | \$82,800,000  | \$62,400,000 | \$20,400,000            | \$522,360                  | \$0                       | \$19,918,640           |

Note: The revised residual value, column 11, has also taken into account the ability of the developer to pass on to the buyers or tenants the tax-saving benefits of the development charge, which were calculated in chapter 2 to be, on average, \$350 per dwelling unit and \$4.50 per square metre of non-residential space.

Conclusion: The table illustrates the incentive to substitute residential space for commercial space that higher development charges would introduce.

#### 4. Conclusions

If implemented, the allowable development charges calculated in the Background Study would raise the charges by \$6,683 for single-detached dwelling units, \$4,353 for two-bedroom or larger units, \$2,653 for one-bedroom units or studio apartments, and \$5,253 for “other multiples” such as row housing. On average, these increases work out to approximately \$25 per square metre; larger units of any one type would face a lower charge per square metre, smaller units a higher charge.

By comparison, the allowable charge for non-residential units would raise development charges from the current level of zero to \$72.87 per square metre. While this is almost three times the possible increase for residential units, many non-residential projects would be exempt from paying the fee. Based on data in the Background Study, I estimate that only about 40 per cent of the increase in non-residential floor space between 2004 and 2014 would in fact be charged the development fee if it were implemented.<sup>31</sup>

Both the residential and the non-residential increases, if implemented, would have financial effects and would create various incentives that could lead to changes in the pattern of development across the City. However, the fee increases are themselves low relative to the market price of completed floor space and the real effects will correspondingly be small.

The financial effects will determine the amount by which people would benefit or lose by the introduction of higher charges. Existing residents and other taxpayers will clearly gain because a higher development charge used to pay for the required growth in infrastructure associated with new development will reduce the extent to which this growth has to be paid for through property taxes or user fees. I estimated in chapter 2 that this gain to residents would by 2014 be about \$140 a person or \$350 per dwelling unit. The corresponding benefit to non-residential properties would be about \$4.50 per square metre.

These tax and user-charge benefits apply only to existing residents and property owners, not newcomers. The reason for this is that, although the tax and user-charge burden on newcomers will similarly be less than otherwise, this benefit will be offset by a correspondingly higher selling price or rental price on new units. Thus the market will allow developers to capture a part of the increased development charge -- on average roughly 6 per cent for non-residential projects and about 9 per cent for residential projects -- with no effect on buyer demand.

Aside from this tax-reduction benefit, developers may be able to offset only a small portion of the higher development fees through higher selling or renting prices. This is because, in general, new units developed in Toronto are in competition with projects outside the City and, even more importantly, with the existing stock of dwellings and non-residential space. The existing stock at any time is about one hundred-times the size of the expected annual new floor space to be developed between 2004 and 2014 and so

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31 See footnote 30 on p. 82.

the price at which its available in the market will greatly influence the price at which new units can be sold.

The difficulty in passing higher development charges forward to the buyer or tenant will be most acute in locations within the City that are particularly competitive with areas outside the City and with projects that offer little by way of uniqueness in either style or location. For locations or projects within the City that have less competition from similar locations or similar projects there will be a greater ability to pass forward some part at least of the higher charge. Thus, it is likely to be more difficult to pass development charges forward in outer locations within the City and easier for projects close to the central area and the waterfront.

Most of the cost of the higher development charges will fall in the first instance on developers who own land already assembled and ready to develop. These charges will result in lower developer profit than anticipated. Since developers cannot stay in business over the long run without earning normal profits, they will be willing to pay only lower prices for land yet to be assembled. In this way, the portion of the higher charges not borne by new buyers and tenants will very quickly become capitalized in lower values for developable land.

In summary the financial effects of higher development charges will be to benefit existing residents and taxpayers, to cost new buyers and tenants some portion of the increase, but likely a very small portion, to cost developers who already own property soon to be developed a large share of the cost of the increase, and to cost owners of land that is becoming ripe for development a similarly large share of the increase.

These financial effects may induce real effects in the pattern of development. A higher residential development fee can have the effect of encouraging developers to build fewer units in any one project, or to build larger units. In chapter 3, a number of plausible examples are analysed in order to help determine the likely magnitude of these effects. The conclusion from these examples is that the real effects of the higher residential charges are likely to be very small and in some cases non-existent – developers will find that their best course of action is to proceed with a project just as it was initially planned before any fee increase and to absorb the loss. As my examples show, any other decision, in many cases, will cost the developer even more. Even if the whole of the increased development charge (less the tax and user-charge benefit which can always be passed forward) is borne by the developer or landowner, its magnitude is likely to be quite small for residential projects; in the examples of chapter 3 this cost was between 1 and 5 per cent of the land value.

For the non-industrial projects, the financial effects are larger and so too will be the real effects. In the example illustrated in Table 4, I showed how the increased charges could influence the mix of residential and commercial space in a mixed-use development - commercial space would be reduced.

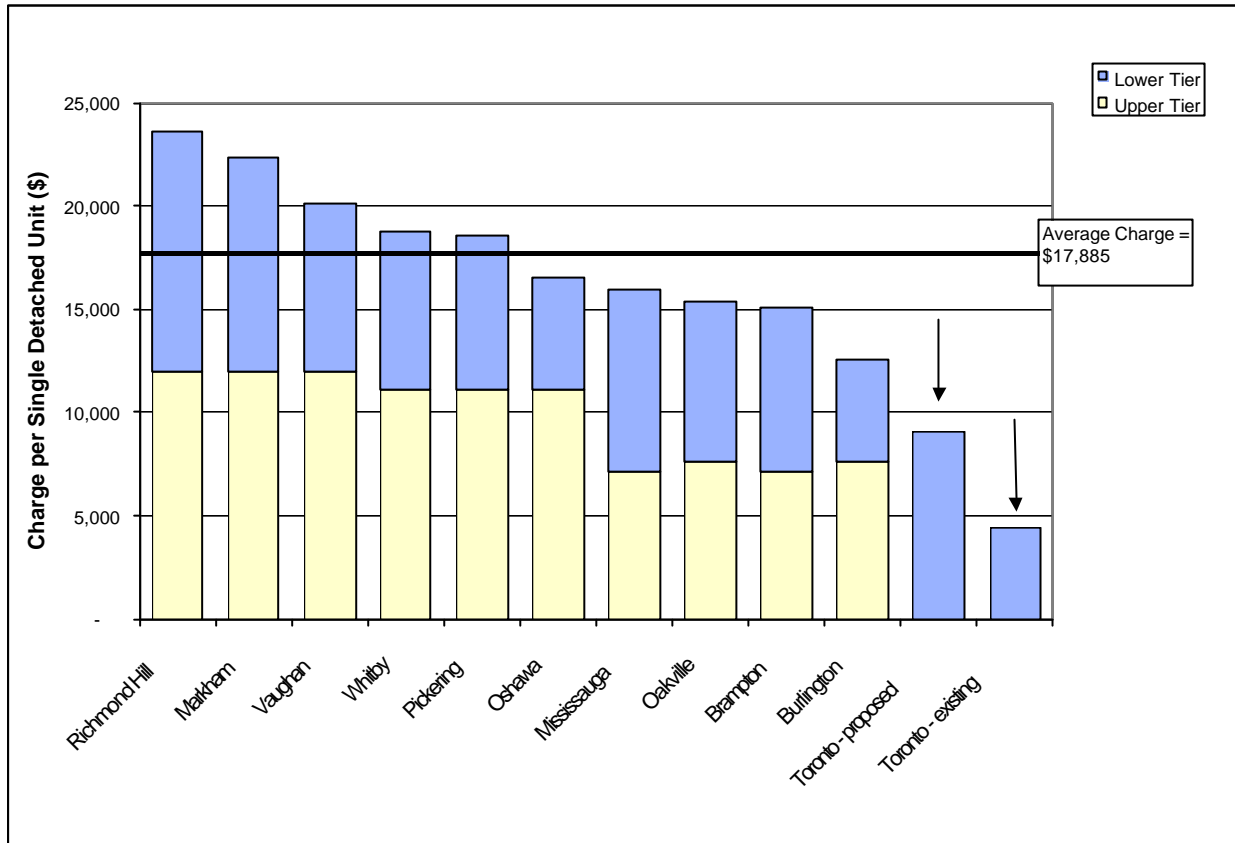
With the increased non-residential fee having the possibility of reducing land values by 20 per cent or more, as the examples of chapter 3 show, perhaps the greatest real effect will come from decisions by developers or land owners not to proceed with a planned

project, at least not at this time. If the existing use for some property slated for early re-development yields a relatively high property value (relative that is to the anticipated value in a new use), the re-development may well be delayed. If the value of its existing use is low for some properties — so-called “soft” properties —, then the higher fee will have less of an effect on the development decision. Without doing a detailed analysis of the many properties across the City that may be considered as likely candidates for development over the next ten years it is difficult to determine the magnitude of this outcome.

Again, in unique locations, such as the central area, the possibility of passing forward to new buyers or tenants the cost of the increased fee is much better than in other locations, so the developer will bear less of the burden and the real effects will be smaller. Also, as I noted above, it appears that less than half of the new non-residential floor space expected to be developed over the next ten years would be subjected to the development fee, if implemented. This high percentage of exempt projects would of course moderate the real effects of the development charge and the existence of exemptions would create a small bias in favour of development-charge-exempt projects, compared with the situation with no development charges.

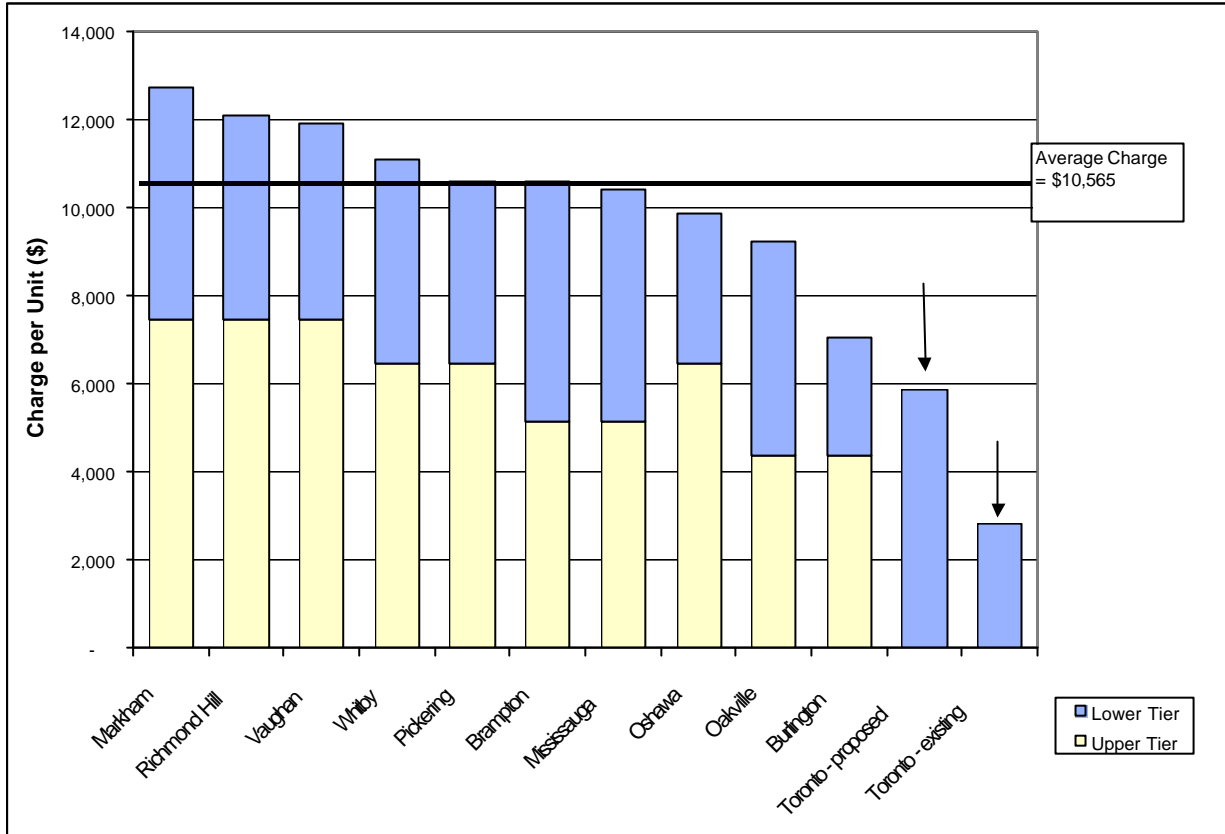
Appendix E  
 GTA Municipal Development Charge Comparisons

Table E-1 – Adopted Municipal Residential Development Charge  
 Single Detached Dwelling Unit  
 As of January 1, 2004



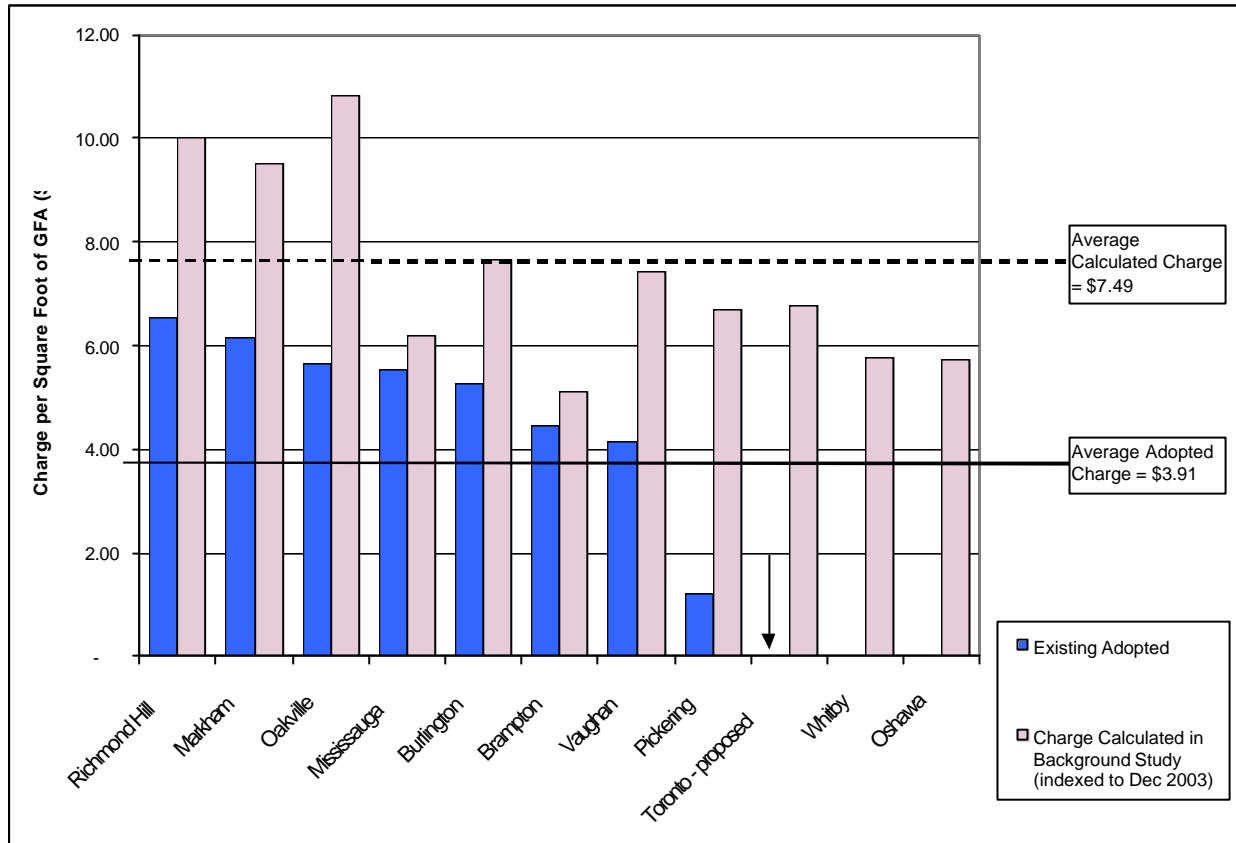
Note: Average Charge excludes Toronto, Source: C.N. Watson and Associates Ltd.

Table E-2 – Adopted Municipal Residential Development Charge  
 Two Bedroom Apartment Unit  
 As of January 1, 2004



Note: Average Charge excludes Toronto, Source: C.N. Watson and Associates Ltd.

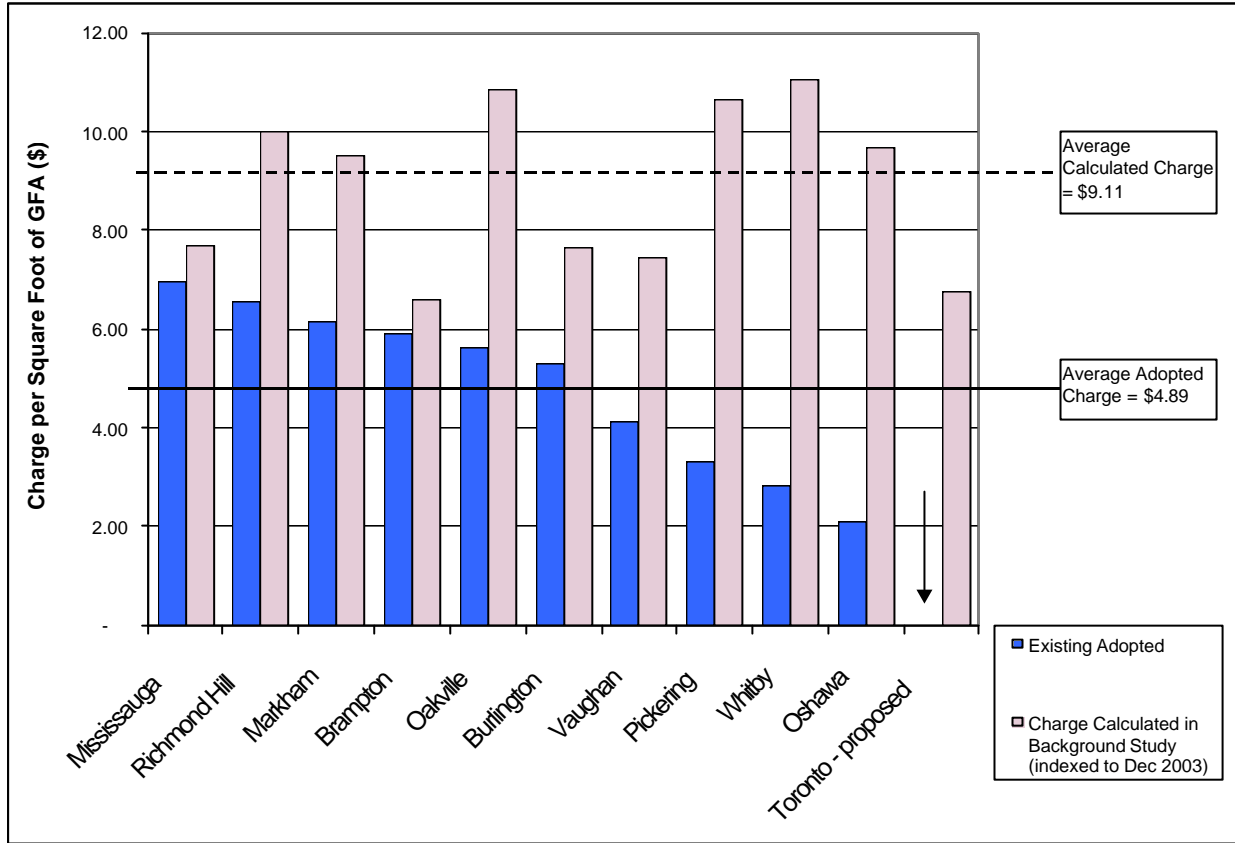
Table E-3 – Calculated vs Adopted Municipal Non-residential Development Charge  
 Industrial Development  
 As of January 1, 2004



Note: Average Calculated and Adopted Charge excludes Toronto, Source: C.N. Watson and Associates Ltd.

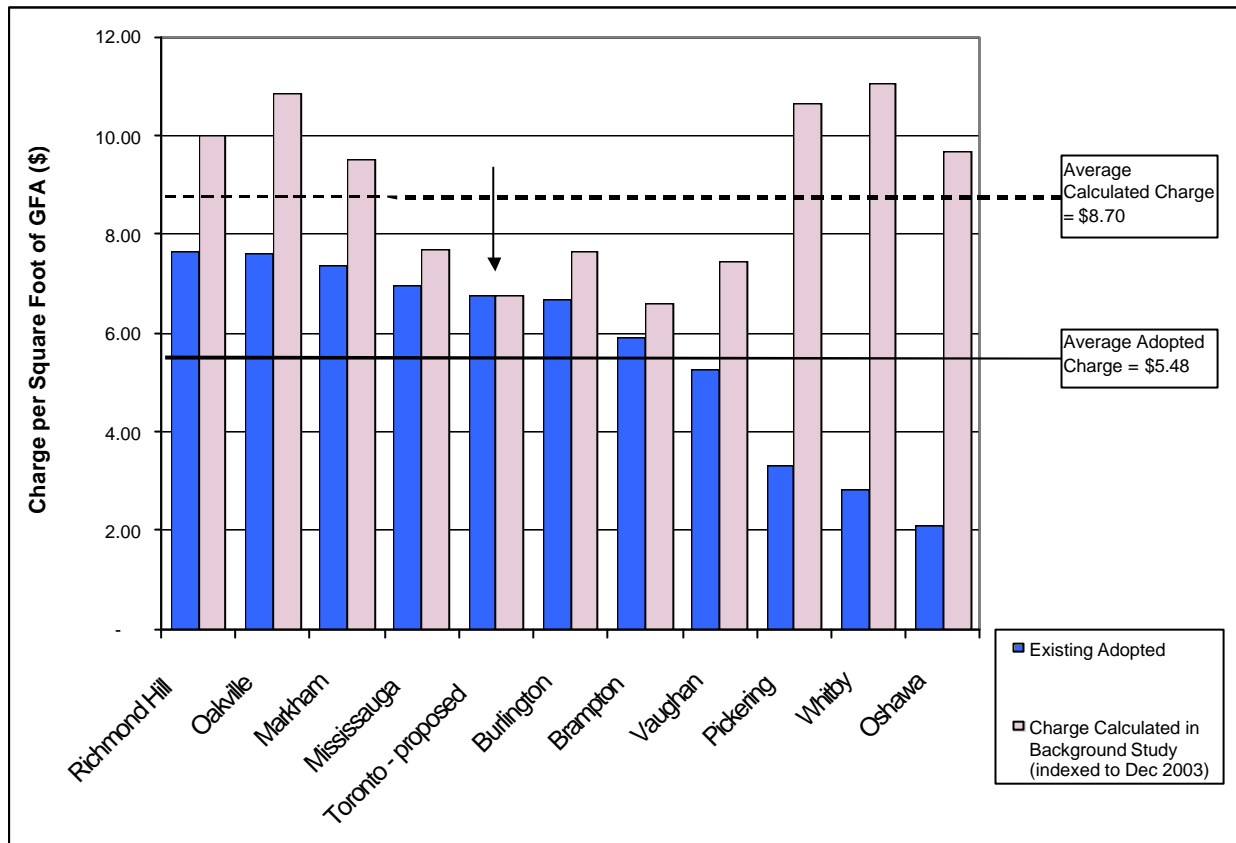


Table E-4 – Calculated vs Adopted Non-residential Development Charge  
 Commercial Development (Excluding Retail)  
 As of January 1, 2004



Note: Average Calculated and Adopted Charge excludes Toronto, Source: C.N. Watson and Associates Ltd.

Table E-5 – Calculated vs Adopted Non-residential Development Charge  
Retail Development  
As of January 1, 2004



Note: Average Calculated and Adopted Charge excludes Toronto, Source: C.N. Watson and Associates Ltd.

The Policy and Finance Committee also considered the following material and communications which were distributed at the meeting on June 14, 2004, and copies of which are also on file in the office of the City Clerk, City Hall:

- Appendix C “Proposals Prepared By IBI Group on Behalf of UDI/GTHBA” dated May 10, 2004, and City Response dated May 19, 2004;
- Table 1-1A – “Overview of Changes in 2003/2004 Development Charges, Figures 1-1 to 1-5 and Tables 1-1 to 1-2.
- (April 24, 2004) from Mr. Kumar Patel, Manager, Olympic Plastic Bags (1983) Ltd.;
- (May 6, 2004) from Pat Baker, President, Baker Real Estate Corporation;
- (May 25, 2004) from May Chan, Chief Executive Officer, Viva Magnetics (Canada) Ltd.;

- (June 14, 2004) from Mr. William R. Rauenbusch, Federation of North Toronto Residents' Association (FONTRA);
- (June 13, 2004) from Mr. Brian Maguire, Secretary, North Hill District Home Owners' Association;
- (June 11, 2004) from Mr. Philip Mohtadi, President, Oriole Park Association;
- (June 11, 2004) from Mr. Bohdan S. Onyschuk, Gowling Lafleur Henderson LLP, solicitors on behalf of the Residences of College Park Inc.;
- (June 14, 2004) from Mr. Ian Brown, Toronto Industry Network;
- (June 14, 2004) from Mr. Jeffrey L. Davies, Davies Howe Partners, Lawyers to the Conservatory Group and Times Development Inc.

(A copy of the "City of Toronto 2004 Development Charge Background Study" dated April 21, 2004, was distributed to all Members of Council, a copy of which is also on file in the office of the City Clerk, City Hall.)

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The Chief Financial Officer and Treasurer gave a presentation to the Policy and Finance and filed a copy of his presentation material.

Professor David M. Nowlan, Professor Emeritus in Economics, University of Toronto, also gave a presentation to the Policy and Finance Committee.

The following persons appeared before the Policy and Finance Committee:

- Mr. Michael Visser, Coalition for Municipal Change;
- Mr. Tom Halinski, Aird and Berlis LLP, representing Loblaw Properties Limited;
- Mr. Jim Murphy, Director of Government Relations, Greater Toronto Home Builders' Association;
- Mr. Brian Parker, Urban Planner, and Ms. Denise C. Baker, Solicitor, Gowling Lafleur Henderson LLP, representing the Residences of College Park Inc. and College Park Tower II;
- Ms. Arlena Hebert, Lytton Park Residents' Organization Inc.;
- Mr. Paul Scrivener, Consultant, and Mr. Ian Brown, Member, The Toronto Industry Network;
- Ms. Ornella Richichi;

- Mr. Bill Rauenbusch, Federation of North Toronto Residents' Association (FoNTRA), and filed a submission;
- Mr. Terence West, Don Mills Residents' Inc. and
- Mr. Neil Rodgers, President, Urban Development Institute.

The following Members of Council also appeared before the Policy and Finance Committee:

- Councillor Brian Ashton, Scarborough Southwest;
- Councillor Doug Holyday, Etobicoke Centre; and
- Councillor Karen Stintz, Eglinton-Lawrence.

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***City Council – June 22, 23 and 24, 2004***

*Council also considered the following:*

*Report dated June 18, 2004 from the Commissioner of Urban Development Services, the Commissioner of Economic Development, Culture and Tourism and the Chief Financial Officer and Treasurer:*

*Subject: Development Charges for “Big Box” and Other Retail Uses*

**Purpose:**

*To explore the feasibility of imposing a differentiated development charge on large retail uses above a “big box” retail size threshold.*

**Financial Implications and Impact Statement:**

*Because this report is not recommending any further changes to the proposed Development Charge By-law as recommended by Policy and Finance Committee, there are no additional financial implications beyond those identified in the June 9, 2004 report to Policy and Finance Committee on the Development Charge By-law.*

**Recommendations:**

*It is recommended that this report be received for information.*

**Background:**

*At its meeting of June 14, 2004, the Policy and Finance Committee had before it a report dated June 9, 2004 on the 2004 Development Charge By-law from the Chief Financial Officer and the*

*Commissioners of Urban Development Services and Economic Development, Culture and Tourism. The Committee passed the following motion, among others:*

*“The Policy and Finance Committee requested the Chief Financial Officer and Treasurer, the Commissioner of Urban Development Services and the Commissioner of Economic Development, Culture and Tourism to submit a report directly to Council on June 22, 2004, on the feasibility of implementing a differentiated retail charge for oversized retail over a designated “big box” threshold.”*

*This report responds to the request for a further report to Council.*

*Comments:*

*As discussed in the May 3 and June 9, 2004 reports, staff considers that retail uses in general are unlikely to be deterred by development charges. Development charges represent a relatively low proportion of the development costs for retail space, and the land development market is generally working well with respect to retail uses. Staff consequently concluded that it would not be appropriate to provide special relief for retail uses in general.*

*In discussing this request with the mover of the motion, Councillor Moscoe, it was made clear that the interest was not in seeing a reduction in the proposed general retail development charges for non-big box retail. Rather the issue was whether a higher charge than that calculated for general retail could be justified for big box retail such as Home Depot, Costco or the typical “power centre”.*

*The proposed DC By-law currently proposes to charge all retail uses the maximum charge (\$6.77 per sq. ft.) calculated in the Background Study for non-residential uses. Given the methodology of the Background Study, and pursuant to the legislation, this charge cannot be increased. Thus, the only means of differentiating the DC’s above and below a threshold size would be to reduce the charge for those retail uses below a threshold size. The City could thus charge large format retail uses the maximum calculated charge and offer DC relief to smaller retail uses. This would result in the City foregoing DC revenue on those smaller uses that would have to be recovered through increased property taxes and/or water rates.*

*The following discussion contained in the June 9, 2004 report to Policy and Finance Committee specifically addressed the issue of a reduced charge for smaller retail uses:*

*“Very large, big box retail uses can have very large market areas that transcend municipal boundaries and these stores thus have a much greater geographic area within which to locate. They are thus more “footloose” than smaller retail stores in the sense that they can often choose among two or more municipalities in which to locate in order to serve similar geographic markets. However, the municipal infrastructure costs of servicing big box uses can be relatively high. Traffic impacts in particular can be costly to mitigate, and big box retail uses are not generally transit or pedestrian friendly.*

*While these arguments might suggest a differentiation in development charge relief between smaller retail uses and big box retail uses, with the big box uses receiving little or no such development charge relief, in practice this is very difficult to effectively implement. A basic*

*difficulty is in determining a size threshold for big box uses that will be fair. Another difficulty is in distinguishing between what people traditionally think of as big box retail uses and other large retail uses such as grocery stores or department stores, especially at the building permit stage of approvals.”*

*For these reasons staff concluded that it was neither necessary nor appropriate to offer development charge relief for retail uses in general. In addition, the problems inherent in distinguishing big box retail uses from other retail uses did not make it practical to do so.*

*Councillor Moscoe’s intent, to impose a higher charge on big box retail, cannot be supported by the current Background Study. Only a reduced charge for smaller retail could be implemented. As noted in the June 9<sup>th</sup> staff report, there are real difficulties in implementing this approach.*

*A “big box” store is a large format, high sales volume “category killer” retail store, such as Home Depot and Costco, usually with extensive parking lots. Such stores can have floor areas of 10,000 to 11,000 m<sup>2</sup> or larger. Large grocery stores were the first kind of “big box” store to appear in North America. They generate high traffic volumes, they can create land use problems along traditional shopping streets, they can have negative impact on the streetscape and pedestrian environment, and can locate in industrial areas, displacing industrial uses. However, a “power centre” with a number of smaller stores in the 2,000 to 3,000 m<sup>2</sup> range can also have planning, urban design and traffic impacts that are just as significant, if not greater.*

*A threshold based upon a floor area designed to capture the big boxes and the power centres might also capture expansions to the Eaton Centre or Yorkdale Mall, or the establishment of the former Maple Leaf Gardens as a retail centre, and such uses as the Metropolis cinema complex at Yonge and Dundas Streets. These are not usually thought of as big box retail uses, but could involve very large retail floor areas. If the intent is to focus on the suburban big box and power centres, a threshold size is not an effective mechanism since it could capture retail activity that does not display the characteristics that are at issue.*

*An additional administrative difficulty with imposing a DC on big box retail uses is that at the time of building permit application, the proposed retail space is often not yet divided into individual stores. This would often make it very difficult, if not impossible, for Building staff in administering the DC By-law to determine how many stores would ultimately be created in the proposed building(s), and the floor area(s) of such stores. If a size threshold for large retail stores were to be included in the DC By-law, above and below which the DC rates for retail uses were different, there would often be no way of determining whether any individual stores would exceed the threshold, even if the overall building floor area did exceed the threshold.*

*A “power centre” could be established through the incremental approval of individual stores, very few of which might on their own be considered large format retail uses, but which in combination form a very large conglomeration of retail uses with the associated parking, urban design and planning impact concerns.*

*If, in spite of these difficulties and disadvantages, Council were to decide in favour of establishing a threshold size for large retail uses, such a threshold would most reasonably be set at about the 3800 m<sup>2</sup> (40,904 sq. ft.) size. Stores larger than this threshold could generally be considered to be large format retail uses. For the reasons noted above, this would also have to*

*apply to the total space within a building or addition, since any proposed division of that space into smaller, individual stores is often not known at the building permit stage. There is no practical way to distinguish between retail space in big box stores and power centres and shopping malls. The DC rate for the retail uses below this threshold could be set at a lower figure, say \$3.48, arrived at by deleting all components of the DC except roads and transit.*

*For the reasons previously cited, staff does not recommend such a course of action.*

Conclusions:

*The difficulties in determining a suitable size threshold for big box retail uses, in effectively targeting the suburban big box or power centre retail model, in distinguishing between types of retail uses, and in administering such a threshold, make the implementation of such a threshold very difficult. In addition, retail uses in general do not require special DC relief, and establishing a threshold in the DC By-law would mean that retail uses below the threshold must receive a measure of DC relief. The existing ratepayers would have to fund such DC relief. These are all reasons supporting the conclusion that differential DC rates for big box and other retail uses in the DC By-law are not practical or necessary.*

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Communication:

*(June 17, 2004) from Lynda J. Townsend Renaud, The Law Office of Lynda Townsend Renaud, representing First Pro Shopping Centres.*