



Development Services Standard Operating Procedure

Procedure: Amended Development Charges Procedure

Subject: Expectations for administering the Development Charges By-law

Covers: Development Services Division

Effective: December 1, 2021

Purpose: City Council adopted By-law No. 7175 requiring the payment of Development Charges in the City of Brandon (The City). Development Charges are funds collected to construct new services or upgrade existing services required for growth. The development charge procedure clarifies roles and responsibilities to administer the Development Charge By-law.

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PART I: CALCULATING CHARGE AT DEVELOPMENT AGREEMENT

1. Upon circulation of a subdivision or rezoning application, the Land Development Administrator will determine if the development is located in the Emerging Growth Area or Established Growth Area.

NOTE:

- Proposed developments in the Established Growth Area will not be charged at the time of development agreement for any development charges.
- Proposed development in the Established Growth Area is, however, not exempt from boundary and/or on-site improvements and/or contributions to direct infrastructure impact.

Emerging Growth Area Charge

2. The Land Development Administrator will calculate the development charge using a *“Development Charge Calculation Form”*.
3. To calculate the charge, the Net Developable Area is multiplied by the Net Hectare Development Charge. The Net Developable Area can be found on the provisional plan of subdivision, site plan, or application form submitted with the land use application. The Net Developable Area is to be confirmed with the File Manager.

NOTE:

- Development charges shall only apply to the Net Developable Area being intensified (non-residential) or densified (residential) as a result of the rezoning or subdivision application.
 - The Net Developable Area excludes all land for public or school reserves, public and/or private roads, land for municipal services and land not suitable for building sites as per The Planning Act.
 - Reductions of development charges do not apply at the time of development agreement even if a previous development agreement registered on the title took contributions for development charge infrastructure. See Reductions in Part III.
4. The Land Development Administrator will communicate the Total Network Infrastructure Charge to the File Manager and provide a copy of the development charge calculation form.
 5. The File Manager will communicate the charges and the calculation form as part of the formal comments to the developer.

NOTE:

- Should a developer wish to appeal the development charges calculated, they will be required to appeal the charges following the application going to City Council for 2nd reading. See Appeals in Part X.

6. Prior to the subdivision or re-zoning going to the Planning Commission and/or City Council, the Land Development Administrator will prepare a Development Review Group Report outlining all conditions of the development agreement. All charges, if applicable, will be included on the report. The report will be provided to the applicant for information.
7. Upon approval of either the subdivision or re-zoning application, the Land Development Technician will prepare the development agreement for signing and request the Finance Clerk to prepare the invoice for all contributions required under the development agreement.
8. Upon final review of the development agreement, the Land Development Technician will send out the agreement for execution along with the invoice. All invoiced contributions will be required to be paid in full at the time the developer executes the development agreement. The City will not execute the development agreement until such time as the invoice is paid in full.
9. For subdivisions: Upon conditional approval, the Land Development Technician will prepare the development agreement. The developer has two years to sign the development agreement however, the invoice will begin to accrue interest after 30 days of issue.

For re-zonings: Upon City Council providing 2nd reading, the Land Development Technician will prepare the development agreement. The application will not be taken for 3rd reading until such time as the development agreement is duly executed and the invoice is paid in full. Should City Council not grant 3rd reading, all contributions paid would be refunded by the City in full, without interest, to the developer.

PART II: CALCULATING CHARGE AT BUILDING PERMIT

10. Development charges are also charged at the time of building permit. Where a building permit is split (foundation and superstructure), development charges will apply to the foundation permit.

NOTE:

- Developments located in the Established Growth Area are charged Treatment charges.
 - Developments located in the Emerging Growth Area are charged both Treatment and Network Infrastructure charges.
11. For applications made on Cityview Portal, the applicant will be required to enter in the following information to determine which, if any, development charges are applicable to them:
 - a. Address: Emerging Growth Area, Established Growth Area or Industrial area;
 - b. Use: Residential or Non-residential; and
 - c. Residential Use Type and unit count and/or Non-residential square footage

NOTE:

- Development charges will not be applied to residential accessory buildings.

12. To determine if reductions can be applied, the applicant will be prompted to answer the following questions:

- Is there a development agreement with the City of Brandon registered on my title?
- Was there a previous use on the property?
- If yes, was it residential and/or non-residential?
- What type of residential and/or square footage of non-residential?
- Does the previous use still exist on the property?
 - If no, when was it demolished?
 - If yes, when was the property vacated?

See Reductions under Part III.

- To confirm the above details, the applicant will be required to upload a Notice of Assessment received from the Province of Manitoba for the property and issued within the last five years demonstrating the previous use.
- Drop down menus with options will be provided through the application to guide applicants. The information provided by the applicant will determine how the development charges are calculated.
- For applications made by written application, the Permit Clerk will assist the applicant, if necessary, on filling out the form correctly to ensure proper calculation of charges. The Permit Clerk will enter the application details into Cityview. All required information for the written application will mirror the Cityview Portal application.
- Once the Permit Clerk has completed their review and verified all submittals, the appropriate reviews/sign-offs will be triggered in Cityview along with the calculation of the appropriate charges based upon the location of the development. The Land Development Administrator will be assigned the sign-off to review the development charge calculation.
- The Land Development Administrator will be required to complete daily reviews of Cityview to ensure proper and timely permit evaluations.
- The Land Development Administrator will review each permit assigned to verify charges have been applied accurately. To confirm if reductions apply, the Land Development Administrator will verify if there was a previous use on the property using the Notice of Assessment for the property and if necessary, the City's permitting, mapping and archived file management software.
- If reductions are applicable, the Land Development Administrator will approve the reduction(s).

20. All development charges will be due and payable prior to issuance of the building permit.

PART III: REDUCTIONS

21. Reductions may only be available at the time of building permit development charges. Reductions are not available at the development agreement stage.

22. Notwithstanding section 21, building permits may be eligible for a reductions based upon a previous development agreement registered on the title and/or a previous use on the property.

Reductions based upon a development agreement

23. Upon application of a building permit where preliminary review indicates that the contributions taken under a previous development agreement may exceed the Net Hectare Development Charge as per the Fee Schedule for that applicable year, the Land Development Administrator will calculate, to the best of their ability, the Net Developable Area developed under that development agreement.

24. Once determined, the contributions taken under that development agreement will be converted to a per hectare charge and compared to the Net Hectare Development Charge as per the Fee Schedule for that applicable year.

25. Reductions based upon a previous development agreement will only apply after December 31, 2021 where:

- a. the development agreement is registered on the certificate of title,
- b. contribution(s) taken in the development agreement were for development charge infrastructure, and
- c. contribution(s) taken in the development agreement exceed the Net Hectare Development Charge as per the Fee Schedule for that applicable year.

Reductions based upon a previous use

26. Reductions may be available at the time of building permit for new development where a building, in whole or in part, was demolished or converted from non-residential to residential or vice versa no more than sixty (60) months (5 years) prior to the date of payment of development charges.

27. For previous residential use, the reduction will be based upon previous units.

28. For previous non-residential use, the reduction will be based upon square footage.

29. For mixed use, the reduction will be based upon the sum of the two.

PART IV: TRANSITIONAL RULES

30. Transitional rules will apply to all proposed development, in both the Established and Emerging Growth Areas from the effective date of this by-law, July 1, 2019 until December 31, 2021.

Development Agreements

31. Any proposed development in the Emerging Area where a previous development agreement with the City is registered on title will be exempt from all development charges until December 31, 2021.
32. Beginning January 1, 2022, all proposed development (through development agreement and/or building permit) in the Emerging and Established Growth Areas will be charged development charges even if there is a previous development agreement registered on title with the City.
33. Notwithstanding section 32 where contributions which apply to development charge capital infrastructure were taken under a registered development agreement dated prior to July 1, 2019, reductions may be applied to building permits only if the development agreement contributions exceed the Net Hectare Development Charge as per the Fee Schedule for the applicable year. Refer to Part III, Reductions.

Building Permit

34. Any building permit applied for in the Emerging and Established Growth Areas, where a previous development agreement has been executed with the City, will be exempt from all development charges until December 31, 2021.
35. Any building permits applied for by written application and accompanied by a complete submission, prior to Friday, December 31, 2021 at 5:00 p.m. may be exempt from development charges.
36. Any building permits applied for by Cityview Portal and accompanied by a complete submission, prior to Friday, December 31, 2021 at 11:59 p.m. may be exempt from development charges.
37. For permits applied for prior to the deadlines above in which a complete submission does not accompany the application, the applicant will be granted an additional ten (10) calendar days from December 31, 2021 (end date of transitional period) to submit any outstanding requirements. Complete submissions must be received by the City no later than January 10, 2022 at 5:00 p.m. (written application) and 11:59 p.m. (Cityview Portal applications).
38. A "complete submission" includes all of the required submittal documents for the permit type. Typical requirements include:

- Where applicable, issued development permit
 - Survey Staking Certificate
 - Site Related Plans
 - Status of Title
 - Servicing Plan
 - Grading Plan
 - Building Plans
 - Elevations/Cross Sections
 - Property Owner Authorization
 - Heating and Ventilation Summary
39. Permits with incomplete submissions after January 10, 2022 at either 5:00 p.m. (written application) or 11:59 p.m. (Cityview Portal application) will be subject to development charges even if the application was made prior to December 31, 2021.
40. Extensions past the additional ten (10) calendar days to complete a permit submission will not be granted.
41. For permit applications with a complete submission prior to January 10, 2022 at either 5:00 p.m. (written application) or 11:59 p.m. (Cityview Portal application), Development Services will undertake to perform a completeness review of the permit application within ten (10) calendar days to determine that all information, drawings and details needed to issue the permit are submitted.
42. The City endeavors to contact the applicant within two business days should minor details be missing.
43. The City undertakes to contact the applicant immediately once the permit is ready to be issued. The Permit Clerk will contact the applicant(s) to provide notification that their permit is ready to be issued. All contact will be recorded.
44. Notwithstanding Sections 35-43, all permits applied for prior to the January 10, 2022 deadline must be issued and paid for in full within fifty (50) calendar days from January 10, 2022 (March 1, 2022 at either 5:00 p.m. (written application) or 11:59 p.m. (Cityview Portal application) to remain exempt from development charges.
45. Where a permit was issued and exempt from development charges however, expires after one (1) year without completion of the required work under the permit, permit extensions will be subject to full development charges for that particular area.
46. Splitting of building permits (foundation and superstructure) after the initial application will not grant an extension of time to complete a permit submission.

PART V: FRONT ENDING OF DEVELOPMENT CHARGE INFRASTRUCTURE

47. Where a developer proposes to service their subdivision by way of infrastructure identified and approved through the City's 10-year development charge capital budget (and applicable secondary growth plans) however, where that infrastructure has not yet been constructed by the City, the developer has the option to front end the construction and all associated costs of that infrastructure.
48. If a developer opts to front end capital infrastructure, the developer may recover their costs by receiving credits towards future network development charges until the full cost recovery has been received. All details must be outlined and agreed to by way of development agreement.
49. Credits will only be applied to future network development charges for the applicable service category (e.g. transportation, wastewater, water, drainage) and not on-site or boundary contributions / improvements.
50. Credits will only be applied to future network development charges for the service category charged to the initial developer in which constructed the infrastructure. Credits cannot be transferred to another developer.
51. Costs of the new infrastructure will be determined by way of a Class A Detailed Cost Estimate submitted by the developer's consulting engineer. The design and costs of the infrastructure shall be subject to the review and acceptance of the City Engineer.
52. Credits for infrastructure installed will be based upon actual construction costs.
53. Further details regarding the front ending process will be available in the Development Charges Reserve Policy & Development Agreement Parameters.

PART VI: MANAGEMENT OF FUNDS COLLECTED / REPORTING

54. All development charges will be deposited into a specific reserve account created for each of the service categories.
55. Development charges collected towards each of the service categories is to be used solely for construction of infrastructure in the service category it was taken for.
56. Development charges collected through development agreements will be invoiced and deposited into the appropriate reserve accounts.

57. Development charges collected through building permits will be calculated through Cityview software and directly deposited to the City. All funds will be appropriately distributed to the reserve account for each service category.
58. The City Treasurer and City Engineer shall provide and make publically available a yearly report identifying the funds collected and spent in each development charge reserve account.
59. Further details regarding the management of funds collected and reported will be available in the Development Charges Reserve Fund Management Policy.

PART VII: INDEXING

60. In the spring of each year, Development Services undertakes to review and adjust the development charges in accordance with the previous year's Consumer Price Index (Manitoba) between September 1st of the current year and September 1st of the previous year. Final development charges after the adjustment are due in the City Fee Schedule by June of each year for the upcoming year.
61. All proposed adjustments will be made public by way of public hearing at City Council in December of each year.
62. Annual adjustments to the charges will be reviewed and adopted by City Council by way of the City Fee Schedule.

PART VIII: DEVELOPMENT CHARGE BY-LAW REVIEW AND CONSULTATION

63. The review of the development charge by-law should be completed by a project team, including:
 - a. City Engineer
 - b. City Treasurer
 - c. Manager of Strategic Infrastructure
 - d. Chief Planner
 - e. Land Development Administrator
 - f. Director of Economic Development
63. The Chief Planner shall review and update the areas for growth and growth projections in accordance with the City Plan.
64. The City Engineer and Manager of Strategic Infrastructure shall review and update the services required for growth in accordance with the servicing master plans (transportation, sanitary, water, drainage).
65. The project team should update the background study explaining the methodology for the development charge and any recommended changes (if applicable).

66. The project team should facilitate an internal and external consultation process on the updated background study and the by-law (if revisions have occurred).

PART IX: CAPITAL BUDGET

67. The Manager of Strategic Infrastructure may consult annually with the development industry and Development Services staff to identify the services for growth in the 10-year capital budget.
68. The timing and intensity of growth will direct the amount of investment in services for growth.
69. Further details regarding the City's capital budget prioritization and the policy in which it is determined will be available in the Development Charges Reserve Policy.

PART X: APPEALS

Development Agreement

70. Appeals for a development charge imposed on the development agreement at subdivision and/or rezoning may be appealed the same as any other condition of approval for a subdivision and/or rezoning application.

Re-zonings: When development charges are included in a development agreement as a condition of rezoning a property, the development charges may be appealed the same as any other condition following City Council giving the by-law second reading.

Subdivision: When development charges are included in a development agreement as a condition of subdividing a property, the development charges may be appealed to City Council prior to City Council approving the subdivision. City Council would consider the development charges appeal when considering the subdivision for approval along with any other conditions.

Building Permits

71. Appeals for a development charge imposed on a building permit must be made in writing to the Land Development Administrator with the following information:
- a. The building permit number, address of property and property owner information
 - b. The reason for the appeal
72. Upon receipt of an appeal, the Land Development Administer may contact the appellant to discuss the details depending on the situation i.e. if an error was made in the calculation.

73. Should the appellant wish to have the appeal heard, the Land Development Administrator shall schedule the appeal to be heard by the Planning Commission. At least 14 days prior to the hearing, a notice of the hearing will be sent to the appellant.
74. The Land Development Administrator shall provide a report to the Planning Commission detailing the development charge, reason for the appeal, and recommendation.
75. Legislative Services shall prepare a notice of decision by The Planning Commission. The notice shall be issued prior to the issuance of a building permit.

Original Procedure Created By: Tiffany Stokes
Creation Date: 03/11/19

Procedure amended by: Tiffany Stokes
Amendment dates: 11/30/21



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