
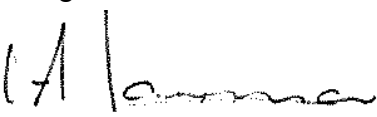




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division
and
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	September 6, 2023
SUBJECT/REPORT NO:	Cost Recovery Municipal Act By-Laws for Development-Related Infrastructure Projects (FCS23056 / PED23170) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ailish Brooke (905) 546-2424 Ext. 6875 Lindsay Gillies (905) 546-2424 Ext. 5491 Gavin Norman (905) 546-2424 Ext. 1255
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	
SUBMITTED BY:	Ashraf Hanna Director, Growth Management & Chief Development Engineer Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the General Manager, Finance and Corporate Services, be authorized and directed to prepare for Council's consideration Cost Recovery Municipal Act By-Laws for Development-Related Infrastructure Projects, in accordance with the Funding Methodology for Infrastructure Extensions Policy (TOE02005(b) / FCS02026(b) / PED07248), where Development-Related Infrastructure Projects benefit existing unserviced land uses where the landowner is only required to pay the proportionate share of the cost at the time of connection or at the time of a *Planning Act* application approval.

EXECUTIVE SUMMARY

Cost recovery obligations under section 391 (1)(a) of the *Municipal Act, 2001*, arise when Development-Related Infrastructure Projects benefit existing unserviced land uses where:

- the City constructs a municipal servicing infrastructure project that is funded through development charges; and / or
- a developer is required to construct a municipal servicing infrastructure project as a condition of development approval.

These Development-Related Infrastructure Projects are generally sewer and / or watermain projects and may be funded upfront by the developer, development charges, other funding or a combination.

Through a review of the Cost Recovery Municipal Act By-law process it was determined that staff's authority to directly submit the subject by-laws to Council for approval is unclear. In order to help streamline the City's development approvals processes and reduce staff workloads associated with preparing reports, staff is recommending that Council provide staff with a standing authorization to prepare and submit directly to Council for approval, Cost Recovery Municipal Act By-Laws where Development-Related Infrastructure Projects benefit existing unserviced land uses where the landowner is only required to pay the proportionate share of the cost at the time of connection or at the time of a *Planning Act* application approval.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial impacts associated with the adoption of this report. No changes are proposed to the charges or costs for municipal cost recoveries.

Staffing: There are no staffing impacts associated with the adoption of this report. The purpose of this report is to provide delegated authority to staff to bring the implementing By-laws directly to Council without an accompanying staff report.

Legal: None.

HISTORICAL BACKGROUND

Report TOE02005(b) / FCS02026(b) / PED07248, the Funding Methodology for Infrastructure Extensions Policy, was adopted by Council on September 26, 2007 and provides the framework for calculating the amounts to be included in Cost Recovery Municipal Act By-Laws and has been referenced as the authority to pass previous Municipal Act By-laws.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

None.

RELEVANT CONSULTATION

Legal and Risk Management Services Division and the Office of the City Clerk, both Corporate Services Department

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Funding Methodology for Infrastructure Extensions Policy, approved by Council on September 26, 2007, through Report TOE02005(b) / FCS02026(b) / PED07248, provides the framework for determining cost recovery obligations. Details of the Cost Recovery process are also included in the City of Hamilton's Financial Policies for Development.

These Development-Related Infrastructure Projects are generally sewer and / or watermain projects and may be funded upfront by the developer, development charges, other funding or a combination.

For projects funded by the developer, where the developer is eligible to recover costs, the City agrees through a Development Agreement to undertake cost recovery efforts from abutting landowners. Regardless of who constructs, if the project is wholly or partially funded by development charges, then charges collected are remitted back to the original development charges reserve, as appropriate.

In both cases, Cost Recovery Municipal Act By-laws are necessary for the City to collect the charge from the benefitting landowner. Benefitting landowners only pay when they take benefit of the service or at the time of a *Planning Act* application approval if they intend to redevelop the property (e.g. through a land severance or Site Plan). In that respect, the preparation and approval of the by-laws are considered a fiscally responsible routine process. There are, on average, four such by-laws annually.

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Through a review of the Cost Recovery Municipal Act By-law process it was determined that staff do not have explicit authority / direction to prepare and submit Cost Recovery Municipal Act By-laws directly to Council for approval. Staff is recommending that Council provide staff with a standing authorization to prepare and submit Cost Recovery Municipal Act By-laws where Development-Related Infrastructure Projects benefit existing unserviced land uses where the landowner is only required to pay the proportionate share of the cost at the time of connection or at the time of a *Planning Act* application approval.

Report FCS23056 / PED23170 does not address Owner-Initiated Petitioned Infrastructure Projects (where Council must consider the petition and formally direct a cost recovery by-law and construction of the project) or Developer-Related Infrastructure Projects where a developer takes benefit of infrastructure constructed by another developer via conditions included in a development agreement (a by-law is not required to ensure cost recovery in this instance).

ALTERNATIVES FOR CONSIDERATION

If staff do not have delegated authority to prepare and submit these routine Cost Recovery Municipal Act By-Laws for Development-Related Infrastructure Projects abutting existing unserviced land uses directly to Council, then a staff report must be submitted for each Cost Recovery Municipal Act By-Law for Development-Related Infrastructure Projects where Development-Related Infrastructure Projects benefit existing unserviced land uses where the benefitting land owner is only required to pay the proportionate share of the cost at the time of connection or at the time of a *Planning Act* application approval for Council approval.

There are, on average, four such by-laws annually. A new process would need to be developed and require support from Growth Management Division, Planning & Economic Development Department; Legal and Risk Management Services Division and Financial Planning, Administration and Policy Division, Corporate Services. This process would increase the time required to pass Cost Recovery Municipal Act By-laws and therefore increases the risk that a land owner will connect into service prior to a by-law being in place.

APPENDICES AND SCHEDULES ATTACHED

None.

AB/LG/GN/dt/dw