

Order No. 163/18

**CITY OF BRANDON
BRANDON WATER AND WASTEWATER UTILITY
INITIAL INTERIM *ex parte* DEVELOPMENT CHARGES**

December 13, 2018

**BEFORE: Shawn M^cCutcheon, Panel Chair
Marilyn Kapitany, BSC. (Hon), M.Sc., Panel Member**

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board) approves, on an interim *ex parte* basis, water and wastewater Development Charges (DCs) as applied for by the City of Brandon (City), Brandon Water and Wastewater Utility (Utility). The DCs will be charged to Developers and Builders within the City.

The Development Charges are to be effective January 1, 2019. The approved initial interim rates related to Water and Wastewater DCs are as follows:

Service	Residential DC (per Unit)		Non-residential DC (per Sq. Ft.)	DC Per Net Hectare (Residential and Non-Residential)
	Low-Density	High-Density		
Treatment				
Wastewater	\$ 433.00	\$ 280.00	\$ 0.25	\$ -
Water	\$ 339.00	\$ 219.00	\$ 0.19	\$ -
Network Infrastructure				
Transportation	\$ 850.00	\$ 550.00	\$ 0.48	\$ 20,060.00
Wastewater	\$ 1,311.00	\$ 848.00	\$ 0.75	\$ 30,943.00
Water	\$ 413.00	\$ 267.00	\$ 0.23	\$ 9,738.00
Drainage	\$ 120.00	\$ 78.00	\$ 0.07	\$ 2,843.00
Total	\$ 3,466.00	\$ 2,242.00	\$ 1.97	\$ 63,584.00

Note the table includes the Network Infrastructure charges for Transportation and Drainage. However, these are not charges within the Board's jurisdiction to review but have been included to provide a full listing of the Development Charges.

Details of other rates may be found in the attached Schedule "A".

Rationale for the Board's decisions may be found under "Board Findings".

2.0 Background

Many municipalities across Canada seek to recover the cost of growth-related infrastructure by imposing capital charges. These charges are referred to as Development Charges,

Development Cost Charges, Off-site Levies, Impost Fees, and Growth Fees, but all seek to recover the capital costs related to providing infrastructure for growth. Within Manitoba, section 232(2)(d) of *The Municipal Act* provides that a municipality may establish fees or other charges for service including capital charges for water, sewer, storm water management and transport.

As defined in the City's application, DCs are fees that are collected by a municipality to offset the costs of infrastructure needed to serve an expansion, new development, redevelopment or to intensify the use of a property.

Currently, the City does this on a site-by-site basis through development agreements, often using inconsistent methodologies. In Manitoba, under *The Planning Act*, a planning district or municipality can enter into a development agreement with a landowner upon subdivision, rezoning, variation or conditional use. The following items can be contained under these site-by-site agreements:

- Land use;
- The construction or maintenance of sanitary sewer, water distribution, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic controls, access and connections to existing services; and
- The payment of a sum of money to the municipality in lieu of the requirement above to the above services.

These development agreements recover localized servicing (such as water and wastewater mains, intersection improvements, etc.) but not the broader servicing, such as water treatment, wastewater treatment, main trunks, arterial roads, etc.

The City states that the development agreement process is difficult to administer consistently and does not provide a development cost recovery on a fair and transparent basis. The City has encountered issues in the past with respect to negotiations with Developers regarding off-site requirements and the consistency in which Developers contribute to surrounding and affected infrastructure.

3.0 Application

On February 8, 2018, the Board received an application for approval of Development Charges (DCs) from the City of Brandon (City), accompanied by Council Resolution #7175.

A Notice of Application to inform the stakeholders of the DCs was issued on March 19, 2018 affording stakeholders and the public the opportunity to comment to both the Board and City with respect to the proposed charges. The Board and the City received no responses.

As per the application and Council Resolution, the City is seeking DCs to allocate growth related infrastructure costs to the builders and developers developing within the City. The City wants to use DCs as a “tool” to recover the costs of growth in a transparent and consistent fashion, while providing a commitment to builders and developers that the City is prepared to be a partner in the funding of infrastructure required for growth.

The City has experienced considerable growth in recent years, making it necessary for the City to provide the required infrastructure to facilitate this continued growth.

The City retained a consultant to prepare a study regarding the development charges, who worked with City staff in preparing the DCs analysis and policy recommendations.

The City has identified **established** and **emerging** growth areas, as seen in Schedule “C”. The emerging areas require new infrastructure to service growth at building out. At this time, in response to stakeholder responses, the City has excluded development charges for development within the designated industrial area in Brandon, as seen in Schedule “C”.

The proposed DCs are applicable to the following areas:

- Charges for treatment apply to the existing and emerging areas; and
- Charges for network infrastructure apply to the emerging area only.

The fees collected will be used to fund the construction of new services or to upgrade existing services needed for growth. Six separate reserve funds will be created with the following categories:

- i. Treatment – Wastewater
- ii. Treatment – Water
- iii. Network Infrastructure – Transportation
- iv. Network Infrastructure – Water
- v. Network Infrastructure – Wastewater
- vi. Network Infrastructure – Drainage

Note that the Board is only approving the water and wastewater related charges in this application, highlighted in grey in the tables within this order.

The City is proposing two classes of DCs for the water and wastewater services, a treatment charge and a network infrastructure charge, for the established and emerging growth areas. The designated Municipal services for DCs water and wastewater is as follows (seen in Schedule “A”):

Treatment – Wastewater

- Municipal Pre-Treatment Facility
- Industrial Wastewater Treatment Facility

Treatment – Water

- Municipal Water Treatment Facility

Network Infrastructure – Water

- Linear Infrastructure
- Water Distribution Network

Network Infrastructure – Wastewater

- Linear infrastructure
- Lift Stations
- Force mains
- Wastewater Distributions Network

Capital Funding Sources and Forecast

Development charges are one of many revenue sources a council may use to fund capital works.

This study estimated the capital costs necessary to provide the increased services. The City then applied adjustments to the capital costs to ensure that the costs included in the DCs reflect the net growth-related costs necessary to facilitate the anticipated growth in the City.

These estimates involve capital costing of the increased services listed above. This entails costing actual projects or the provision of service units, depending on how each service has been addressed.

The capital costs that may be included are as follows:

- costs to acquire land or an interest therein (including a leasehold interest);
- costs to improve land;
- costs to acquire, lease, construct or improve buildings and structures;
- costs to acquire, lease or improve facilities, including rolling stock, furniture and equipment;
- interest on money borrowed to pay for the above-referenced costs;
- costs to undertake studies in connection with the above-referenced matters; and
- the cost of the development charges background study.

The six services identified for growth will be included in the City's 10-year Capital Budget, and the City's Growth Strategy shall determine the construction timing of these services. The City's Council will approve these services for planned growth annually, in the City's annual financial plan.

This DCs application also states where a debt is incurred in relation to a service, it may be included in the capital cost. In order for such a cost to be eligible, it must have funded excess capacity that is able to meet future needs of the anticipated development.

The DCs methodology requires the following deductions be made to the increase in the need for service, namely any:

- Benefit to the existing development; and
- Anticipated grants, subsidies and other contributions.

Development Charges - Water and Wastewater Services

The City has outlined that the DCs for treatment to service the Established Growth Area includes the Treatment charge only as there is no new network infrastructure involved, and the Emerging Growth Area includes both the Treatment and Network Infrastructure charges.

DCs within the Established Growth Area and the Emerging Growth Area are determined based on the type of development within three categories: Residential, Non-Residential and Mixed-Use, seen in Schedule "B".

In its application, the City states that any excess costs for capital projects not captured by DCs, will be funded through either property taxes, utility rates, grants or other sources of funding.

Established Growth Area

The DCs for the established growth area will be paid prior to the issuance of a building permit.

The DCs are calculated with respect to each of the services for the following uses:

- a) Residential – per unit according to Density;
- b) Non-Residential – according to Floor Area (square foot); and
- c) Mixed Use – according to Density for residential portions of buildings and Floor Area for non-residential portions of buildings.

The calculation for residential development is generated on a per capita basis and based on two categories of housing, low-density and high-density. Low-Density means detached,

semi-detached, duplex and row house dwellings. High-Density means multiple dwellings such as condominiums.

Charges for Established Growth Area:

Service	Residential DC (per unit)		Non-Residential DC (per Sq. Ft.)
	Low-Density	High-Density	
Treatment DC only			
Wastewater	\$433	\$280	\$0.25
Water	\$339	\$219	\$0.19
Total	\$772	\$499	\$0.44

Emerging Growth Area

The DCs for the emerging growth area includes a three-part charge that consists of the following:

- **Part 1: Network Infrastructure Charge** – Per Net Hectare (at Subdivision or Rezoning stage).
- **Part 2: Network Infrastructure Charge** – Based on Service: Residential, Non-Residential or Mixed Use (before issuing a Building Permit).
- **Part 3: Treatment Charge** – Based on Service: Residential, Non-Residential or Mixed Use (before issuing a Building Permit).

Part 1: Network Infrastructure Charge

The first Network Infrastructure Charge will be charged on a “net Hectare” basis for residential and non-residential, payable prior to the issuance of a certificate of approval for a subdivision (plan of subdivision or condominium) or prior to a rezoning receiving third reading under *The Planning Act*.

Charges for Emerging Growth Area Network Infrastructure Per Net Hectare Charge:

Service	DC Per Net Hectare (Residential and Non-Residential)
Network Infrastructure	
Transportation	\$20,060
Wastewater	\$30,943
Water	\$9,738
Drainage	\$2,843
Total	\$63,584

Only the portions of the site being intensified (non-residential) or densified (residential) as a result of a subdivision or rezoning shall be included in the Network Infrastructure charge calculation. Where sites have previously been subdivided and zoned for proposed development as a permitted or conditional use, no further subdivision or rezoning charges shall apply.

Part 2: Network Infrastructure Charge

The second Network Infrastructure Charge will be based on the type of development and service. This portion of the Network Infrastructure Charge is due prior to the issuance of a building permit.

The Network Infrastructure development charges are calculated with respect to each of the services based on type of development

- a) Residential – per unit according to Density;
- b) Non-Residential – according to Floor Area (square foot); and
- c) Mixed Use – according to Density for residential portions of buildings and Floor Area for non-residential portions of buildings.

Charges for Emerging Growth Area, Network Infrastructure, based on Type of Development:

Service	Residential DC (per unit)		Non-Residential DC (per Sq. Ft.)
	Low-Density	High-Density	
Treatment			
Wastewater	\$433	\$280	\$0.25
Water	\$339	\$219	\$0.19
Subtotal Treatment	\$772	\$499	\$0.44
Network Infrastructure			
Transportation	\$850	\$550	\$0.48
Wastewater	\$1,311	\$848	\$0.75
Water	\$413	\$267	\$0.23
Drainage	\$120	\$78	\$0.07
Subtotal Network	\$2694	\$1,743	\$1.53
Total	\$3,466	\$2,242	\$1.97

Part 3: Treatment Charge

The last charge is the Treatment Charge, which will be based on the type of development and service. This Treatment Charge is due prior to the issuance of a building permit.

The Treatment development charges are calculated with respect to each of the services based on type of development

- a) Residential – per unit according to Density;
- b) Non-Residential – according to Floor Area (square foot); and
- c) Mixed Use – according to Density for residential portions of buildings and Floor Area for non-residential portions of buildings.

Charges for Emerging Growth Area, Treatment, based on Type of Development:

Service	Residential DC (per unit)		Non-Residential DC (per Sq. Ft.)
	Low-Density	High-Density	
Treatment DC only			
Wastewater	\$433	\$280	\$0.25
Water	\$339	\$219	\$0.19
Total	\$772	\$499	\$0.44

Industrial Area

Currently excluded from development charges.

Indexing the DCs

The City is proposing the DCs be adjusted annually, in accordance with Statistics Canada Consumer Price Index (Manitoba). The indexed percentage increase (or decrease) for the DCs will be equal to the previous year's Consumer Price Index (Manitoba) percentage increase (or decrease) between September 1st of the current year and September 1st of the previous year. This indexed increase will become effective January 1st in the annual City of Brandon Fee Schedule By-law.

Complaints and Appeals

The City has a Planning Commission that has been designated as the official body to receive appeals related to DCs.

Reserve Funds

The City will establish a reserve fund for each of the six designated services to collect the DCs fees:

- i) Wastewater – Treatment Reserve
- ii) Water – Treatment Reserve
- iii) Transportation – Network Infrastructure Reserve
- iv) Water – Network Infrastructure Reserve
- v) Wastewater – Network Infrastructure Reserve
- vi) Drainage – Reserve

The four (4) reserves related to water and wastewater will be contingent on the Board's approval to create the reserve funds within the City's Utility Schedule.

Consultation

The City held 13 public meetings with stakeholder groups. Stakeholder groups included but were not limited to developers, major local institutions, construction and commercial industry groups. The purpose of these meetings was to answer questions regarding the DCs study's purpose, methodology, preliminary and evolving DCs calculations, and policy information.

In addition, the City has included a consultation clause in the DCs By-law stating:

“The City shall consult with development and building industry representatives prior to any amendments to this by-law regarding the application, or the amount of development charges in Schedules B-1, B-2 & B-3 of this By-law.”

4.0 Board Findings

In some cases, the Board can establish interim rates, which are rates that are subject to review following a more complete process. When setting initial rates, the Board will often approve on an initial interim basis. This is done so the Board can review sufficient historical financial information before finalizing the rates and to provide accurate projections for future rate-setting purposes. These rates would then be confirmed as final once the Board has reviewed the historical financial information and finds it to be satisfactory. The Board has determined that this is appropriate in the case of the Brandon Water and Wastewater Utility, Development Charges.

The Board approves, on an interim *ex parte* basis, the initial Development Charges as applied for by the City of Brandon, to be effective January 1, 2019, 2020, 2021.

The Board understands that construction prices fluctuate from year to year, and agrees that there should be a provision within the rate that fluctuates to account for the building market. The Board approves the indexed percentage increase for DCs using the Consumer Price Index (Manitoba) as applied for and stated in Part IX, items 25 and 26 of By-law 7175.

Anything above this indexed percentage amount will have to be applied for and approved by the Public Utilities Board.

The Board also approves the creation of four (4) separate reserves within the Utility to be titled as follows:

- i) Water – Treatment Reserve
- ii) Wastewater – Treatment Reserve
- iii) Water – Network Infrastructure Reserve
- iv) Wastewater – Network Infrastructure Reserve

The Board directs the fees held within these four (4) reserve funds to be directly obtained from the collection of water and wastewater DCs and not funds from the General Operating. The fees must be used for capital water and wastewater development projects only.

The Board recognizes the extensive time and work the City has devoted to planning consultations with the stakeholders and the public. The Board wants the open dialogue with interested parties to continue.

The Board directs the City to prepare a report on the progress of implementation, feedback received from stakeholders, and a summary of financial information be submitted to the Board annually commencing on July 31, 2019 and each year thereafter.

The Board will consider setting the charges as final after two (2) full fiscal years (July 2021) of financial information are submitted for review.

The City will immediately notify the Board should any major concerns or gaps be discovered with the City's DCs methodology.

5.0 IT IS THEREFORE ORDERED THAT:

- 1) Implementation of the water and wastewater Development Charges for the City of Brandon, Brandon Water and Wastewater Utility BE AND ARE HEREBY APPROVED on an initial interim, *ex parte* basis, in accordance with the attached Schedule "A", effective January 1, 2019.
- 2) The City of Brandon ensure that specific reserves for the Development Charges are established, and that the Development Charges are not deposited into the City's general or operating funds.
- 3) The City of Brandon amend its Development Charges By-law to reflect changes in this Board Order and submit a copy to the Public Utilities Board once it has received third and final reading.
- 4) The City of Brandon is to publish public notices to its customers advising of the Development Charges, including the decisions found in this Order, as soon as possible and submit a copy to the Public Utilities Board.
- 5) The City file a report with the Board on or before July 31, of each year, 2019, 2020 and 2021, regarding the progress of implementation, feedback and financial results on the Development Charges.

Fees payable upon this Order - \$500.00

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Shawn M^cCutcheon"

Panel Chair

"Rachel M^cMillin, B.Sc."

A/Assistant Associate Secretary

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issued by The Public Utilities Board



A/Assistant Associate Secretary

SCHEDULE "A"

OF DEVELOPMENT CHARGES BY-LAW NO. 7175 DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

Municipal-wide Services

(1) Treatment – Wastewater

- Municipal Pre-Treatment Facility
- Industrial Wastewater Treatment Facility

(2) Treatment – Water

- **Municipal Water Treatment Facility**

(3) Network Infrastructure - Transportation

- Construction of Street Infrastructure
 - Arterial Streets
 - Collector Streets
- Intersection Improvements
 - Signalization
 - Roundabouts

(4) Network Infrastructure - Water

- Linear Infrastructure
- Water Distribution Network

(5) Network Infrastructure - Wastewater

- Linear Infrastructure
- Lift Stations
- Force mains
- Wastewater Distribution Network

(6) Network Infrastructure - Drainage

- Storm

**SCHEDULE "B"
OF DEVELOPMENT CHARGES BY-LAW NO. 7175**

**Schedule B-1
Schedule of Development Charges (2019 rates)
Established Growth Area – Development Charges at Building Permit**

Service	Residential DC (per unit)		Non-Residential DC (per Sq. Ft.)
	Low-Density	High-Density	
Treatment DC only			
Wastewater	\$433	\$280	\$0.25
Water	\$339	\$219	\$0.19
Total	\$772	\$499	\$0.44

**Schedule B-2
Schedule of Development Charges (2019 rates)
Emerging Growth Area – Development Charges at Subdivision or Rezoning**

Service	DC Per Net Hectare (Residential and Non-Residential)
Network Infrastructure	
Transportation	\$20,060
Wastewater	\$30,943
Water	\$9,738
Drainage	\$2,843
Total	\$63,584

Schedule B-3
Schedule of Development Charges (2019 rates)
Emerging Growth Area – Development Charges at Building Permit

Service	Residential DC (per unit)		Non-Residential DC (per Sq. Ft.)
	Low-Density	High-Density	
Treatment			
Wastewater	\$433	\$280	\$0.25
Water	\$339	\$219	\$0.19
Subtotal Treatment	\$772	\$499	\$0.44
Network Infrastructure			
Transportation	\$850	\$550	\$0.48
Wastewater	\$1,311	\$848	\$0.75
Water	\$413	\$267	\$0.23
Drainage	\$120	\$78	\$0.07
Subtotal Network	\$2694	\$1,743	\$1.53
Total	\$3,466	\$2,242	\$1.97

SCHEDULE "C"
OF DEVELOPMENT CHARGES BY-LAW NO. 7175
MAP OF EMERGING AND ESTABLISHED GROWTH AREAS

