

Limited exemption

3. No land, except land owned by and used for the purposes of a municipality or a board as defined in subsection 1 (1) of the *Education Act*, is exempt from a development charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. 1997, c. 27, s. 3.

Exemption for industrial development

4. (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with this section. 1997, c. 27, s. 4 (1).

Enlargement 50 per cent or less

(2) If the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero. 1997, c. 27, s. 4 (2).

Enlargement more than 50 per cent

(3) If the gross floor area is enlarged by more than 50 per cent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement. 1997, c. 27, s. 4 (3).

Determination of development charges

5. (1) The following is the method that must be used, in developing a development charge by-law, to determine the development charges that may be imposed:

1. The anticipated amount, type and location of development, for which development charges can be imposed, must be estimated.
2. The increase in the need for service attributable to the anticipated development must be estimated for each service to which the development charge by-law would relate.
3. The estimate under paragraph 2 may include an increase in need only if the council of the municipality has indicated that it intends to ensure that such an increase in need will be met. The determination as to whether a council has indicated such an intention may be governed by the regulations.
4. The estimate under paragraph 2 must not include an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 10-year period immediately preceding the preparation of the background study required under section 10. How the level of service and average level of service is determined may be governed by the regulations. The estimate also must not include an increase in the need for service that relates to a time after the 10-year period immediately following the preparation of the background study unless the service is set out in subsection (5).
5. The increase in the need for service attributable to the anticipated development must be reduced by the part of that increase that can be met using the municipality's excess capacity, other than excess capacity that the council of the municipality has indicated an intention would be paid for by new development. How excess capacity is determined and how to determine whether a council has indicated an intention that excess capacity would be paid for by new development may be governed by the regulations.
6. The increase in the need for service must be reduced by the extent to which an increase in service to meet the increased need would benefit existing development. The extent to which an increase in service would benefit existing development may be governed by the regulations.
7. The capital costs necessary to provide the increased services must be estimated. The capital costs must be reduced by the reductions set out in subsection (2). What is included as a capital cost is set out in subsection (3). How the capital costs are estimated may be governed by the regulations.
8. The capital costs must be reduced by 10 per cent. This paragraph does not apply to services set out in subsection (5).
9. Rules must be developed to determine if a development charge is payable in any particular case and to determine the amount of the charge, subject to the limitations set out in subsection (6).

10. The rules may provide for full or partial exemptions for types of development and for the phasing in of development charges. The rules may also provide for the indexing of development charges based on the prescribed index. 1997, c. 27, s. 5 (1).

Capital costs, deductions

(2) The capital costs, determined under paragraph 7 of subsection (1), must be reduced, in accordance with the regulations, to adjust for capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made in respect of the capital costs. 1997, c. 27, s. 5 (2).

Capital costs, inclusions

(3) The following are capital costs for the purposes of paragraph 7 of subsection (1) if they are incurred or proposed to be incurred by a municipality or a local board directly or by others on behalf of, and as authorized by, a municipality or local board:

1. Costs to acquire land or an interest in land, including a leasehold interest.
2. Costs to improve land.
3. Costs to acquire, lease, construct or improve buildings and structures.
4. Costs to acquire, lease, construct or improve facilities including,
 - i. rolling stock with an estimated useful life of seven years or more,
 - ii. furniture and equipment, other than computer equipment, and
 - iii. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*.
5. Costs to undertake studies in connection with any of the matters referred to in paragraphs 1 to 4.
6. Costs of the development charge background study required under section 10.
7. Interest on money borrowed to pay for costs described in paragraphs 1 to 4. 1997, c. 27, s. 5 (3).

Capital costs, leases, etc.

(4) Only the capital component of costs to lease anything or to acquire a leasehold interest is included as a capital cost under subsection (3). 1997, c. 27, s. 5 (4).

Services with no percentage reduction

(5) The services referred to in paragraph 8 of subsection (1), for which there is no percentage reduction, are the following:

1. Water supply services, including distribution and treatment services.
2. Waste water services, including sewers and treatment services.
3. Storm water drainage and control services.
4. Services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be.
5. Electrical power services.
6. Police services.
7. Fire protection services.
- 7.1 Toronto-York subway extension, as defined in subsection 5.1 (1).
8. Other services as prescribed. 1997, c. 27, s. 5 (5); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (1); 2006, c. 33, Sched. H, s. 1.

Restriction on rules

(6) The rules developed under paragraph 9 of subsection (1) to determine if a development charge is payable in any particular case and to determine the amount of the charge are subject to the following restrictions:

1. The rules must be such that the total of the development charges that would be imposed upon the anticipated development is less than or equal to the capital costs determined under paragraphs 2 to 8 of subsection (1) for all the services to which the development charge by-law relates.

2. If the rules expressly identify a type of development they must not provide for the type of development to pay development charges that exceed the capital costs, determined under paragraphs 2 to 8 of subsection (1), that arise from the increase in the need for services attributable to the type of development. However, it is not necessary that the amount of the development charge for a particular development be limited to the increase in capital costs, if any, that are attributable to that particular development.
3. If the development charge by-law will exempt a type of development, phase in a development charge, or otherwise provide for a type of development to have a lower development charge than is allowed, the rules for determining development charges may not provide for any resulting shortfall to be made up through higher development charges for other development. 1997, c. 27, s. 5 (6).