

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND POLICY COMMITTEE MEETING OF JANUARY 29, 2018
FROM:	GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	2019 DEVELOPMENT CHARGE (DC) STUDY - DC AREA RATING POLICY REVIEW

RECOMMENDATION

That on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the following actions be taken:

- a) This report **BE ENDORSED** for use in the preparation of the 2019 Development Charges Background Study consistent with the *Development Charges Act* requirements related to area rating;
- b) The current policy to distinguish Development Charges rates inside the Urban Growth Boundary from those outside the Urban Growth Boundary, **BE CONTINUED**; and
- c) Civic Administration **BE DIRECTED** to continue its analysis to review services that are candidates for differential recovery areas, and that the City work towards an area rating servicing policy to be implemented beyond 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- August 29, 2016 “2019 Development Charge Study - Policy Review Scoping Report,”
Strategic Priorities and Policy Committee
- February 29, 2016 “Changes to Development Charges Act – Bill 73 and Regulations,”
Strategic Priorities and Policy Committee
- May 13, 2013 “Development Charges Policy Review: DC Area Specific Charges,”
Strategic Priorities and Policy Committee

EXECUTIVE SUMMARY

The purpose of this report is to inform Council of the issues impacting the implementation of Development Charges (DC) area rating, and to provide advice about the next steps for this policy review. In summary, Staff is not in a position to recommend a defensible approach to conducting area rate calculations for the 2019 DC Study beyond those for urban/non-urban services. The results of the review and associated analysis has concluded that there are several issues and information gaps that need to be resolved in order to clearly distinguish different service areas within the urban growth boundary and advance defensible area rate calculations at this time.

However, it is recommended that further analysis be completed in the coming years to obtain missing information and undertake necessary studies for *Development Charge Act* purposes. Further, assuming there is a basis for differentiation of charges and delineation of a boundary for those charges, it is recommended that the intention to pursue area rates beyond 2019 be confirmed and communicated to community stakeholders.

BACKGROUND

Bill 73 changes to the Development Charges Act, which were enacted in December 2015, provide municipalities with the option to consider area-specific development charges or ‘area rates’. As such, the new requirements of the Act do not compel any use of specific area rate charges. However, the Act now includes a requirement that Council ‘consider the use of more than one DC by-law to reflect different needs for services in different areas’ (Section 10(2)c.1).

In August, 2016, Staff received Council endorsement of policy topics for review with the 2019 DC Background Study, including area rating.

The policy review provided by this report is intended to serve as the background for fulfilling the

requirement that Council consider the use of more than one DC By-law. Should Council adopt the recommendations contained in this Staff report, full implementation of the DC Act requirement will occur with DC By-law adoption in 2019.

Official Plan and Area Rate Policy review requirement

The City of London Official Plan provides direction to Council and Staff regarding DC area rates. As set out in policy 2.6.3 vii):

The City will consider, as part of a development charges study, the use of a differential development charge to encourage intensification and infilling.

The London Plan, currently under appeal, maintains a provision requiring consideration of area rating as part of a Development Charges Study. The wording of this policy has been updated to reflect current terminology and align with the direction in the Development Charges Act:

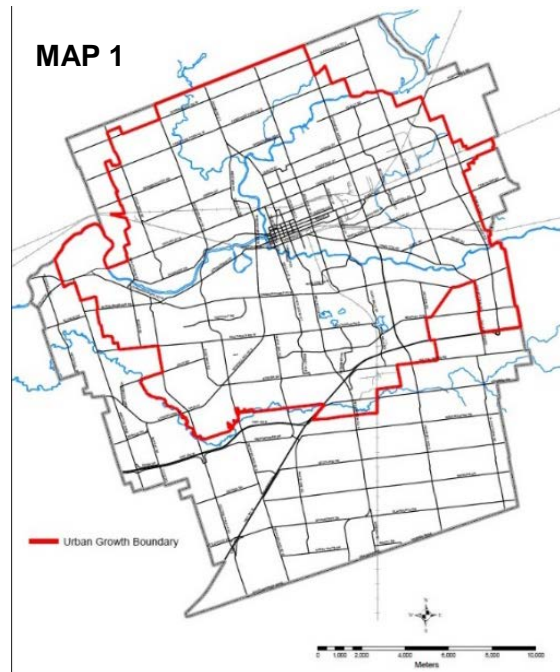
1573.(7) The City will consider, as part of a development charges study, an area rating approach to recognize that the costs of growth in certain areas of the city may be substantially different from the costs of growth in other areas of the city.

Existing Policies that differentiate DC rates for different areas of the city

At present, the City's DC By-law provides for area rating to distinguish DCs between its designated urban and rural/agricultural area. Map 1 depicts the Urban Growth Boundary that delineates the areas subject to differentiated DC rates.

The DC rates beyond the Urban Growth Boundary recognize that this area is generally not served by urban distribution/collection infrastructure such as sanitary and storm sewers, and municipal water mains. All other DC rate components are recovered from both areas, based on a uniform City-wide charge as these services are not restricted to one specific area of benefit and are often used/required by all residents.

With the exception of the "urban/rural" rate distinction, no other DC rate components/services are area rated at present. The table below reflects charges in both areas, in effect at the time of writing (2018 DC rates):



	Within Urban Growth Boundary	Beyond Urban Growth Boundary	Within Urban Growth Boundary	Beyond Urban Growth Boundary
	Single & Semi-detached Residential Rate		Commercial DC Rate*	
"Soft" Services (Fire, Police, Studies, Library, Parks and Recreation, Transit)	\$ 3,469	\$ 3,469	\$ 10.33	\$ 10.33
Roads Services	\$ 13,893	\$ 13,893	\$ 157.94	\$ 157.94
Urban Services (Sanitary and Storm Sewers - collection, treatment & detention, Water Distribution)	\$ 13,073	\$ -	\$ 109.14	\$ -
	\$ 30,435	\$ 17,362	\$ 277.41	\$ 168.27

* Commercial DC Rate is in the 3rd year of a phase-in heading toward \$290/m2 in 2019

This report proposes to maintain the current area rating policy that distinguishes DC rates inside the Urban Growth Boundary from those outside the Urban Growth Boundary.

POLICY CONSIDERATIONS

Ontario's Provincial Policy Statement promotes urban land use intensification and the use of infrastructure and public services more efficiently. As noted, under the *Development Charges Act* municipalities can consider applying area-specific DC area rates to differentiate charges for selected services in different areas within the Urban Growth Boundary. For example, the City could apply a differentiated urban area-rated charge for a service within the built area vs. greenfield development outside of the built area boundary, but only if it can be demonstrated that the service costs to be area rated can be directly attributed to the benefitting population within each area.

i. Calculating an Area Rate – the basics

In order to be consistent with the Development Charges Act, Section 5(1) requires that the anticipated amount, type and location of development within an area must be estimated, and then the increase in the need for a service attributable to the anticipated development must be estimated. Finally, the capital costs necessary to provide the increased services must be estimated. This methodology is required to determine a development charge. Under the Act, a separate by-law must be enacted for each area rate development charge.

As such, area rating generally involves:

1. the identification of a service or services, for which separate rates will be developed;
2. defining service area boundaries that can be clearly distinguished from one another;
3. dividing up the city-wide growth projections to determine the growth that is expected to occur within each defined area from growth expected to occur outside of the area;
4. identifying the projects needed to service anticipated growth within the defined area and their capital costs; and,
5. determining DC rates both inside and beyond the area for the service or services selected.

Within this rate calculation framework there are technically numerous possibilities. Practically however, there are only a few services that would appear to be applicable candidates for distinguishing rates within the Urban Growth Boundary.

ii. City Wide Uniform versus Area Rate Development Charges

The following table presents a comparison between City wide uniform and area rate approaches:

Issue	City Wide Uniform	Area Rate
Suitability	<p>A widely accepted method for determining Development Charges</p> <p>Development-related capital costs for a service are apportioned over all new growth anticipated in the City</p> <p>Most services provide city-wide benefits and are not suitable for area-rating</p>	<p>Can be applied to a service that has clear benefits to a particular area; requires the delineation of logical service area boundaries where a service can be clearly distinguished from the same service in a different area and differentiating the DC rate for that service based on costs and growth in the two areas</p> <p>Area rating is generally most suitable for new unfunded water, wastewater and storm systems and/or areas that do not require certain services</p>
Fiscal Responsibility	<p>DC funds are managed with overall growth expectations to drive revenue projections and collections</p> <p>Maximizes cost recovery under the Development Charges Act</p> <p>Greater degree of funding flexibility to respond to growth in different locations</p>	<p>DC funds are managed with only growth expectations for the sub-area to drive revenue projections and collections</p> <p>For ‘soft services’, could limit cost recovery in areas with an above average planned level of service (due to restrictions within the Act Regulations)</p>
Fairness and Equity	<p>Cost of growth is shared by developments across the City</p>	<p>Apportions costs based on area-specific servicing requirements</p>
Administrative Implications	<p>This is the current development charge rate structure</p>	<p>DC Rates calculated according to urban vs. rural areas can be substantiated based on presence or absence of service delivery. Areas with similar if not identical servicing are more difficult to delineate and to precisely determine benefitting areas</p> <p>Requires separate bylaws and reserve funds</p> <p>Overlapping infrastructure servicing areas are likely to occur and may result in a combination of development charges to administer depending on location</p> <p>Creating, managing and transitioning reserves would be challenging</p>

iii. Types of Services and Area Rating Possibilities

For Development Charges purposes, services are typically divided into two categories: engineered services (also known as ‘hard services’) include road, water, stormwater and sewer infrastructure; and ‘soft services,’ which include services such as Fire, Police, Library and Parks & Recreation.

As soft services and roads infrastructure projects are not restricted to one specific area of benefit

and are often used/required by all residents, it is generally not feasible to 'area rate' soft services and roads as these cannot be divided into defined sub-areas where capital needs can be directly attributed. For example, a road in southwest London may not only be used by local residents as residents from other parts of the City may use this road to travel to and from work, other residents' homes, or businesses in the area. Likewise, fire and police protection are not provided exclusively within defined sub-areas, and libraries and parks and recreation facilities are available to all residents.

As part of this policy review, Staff undertook a scan of approaches used by several municipalities across the Province. While many provide financial incentives to partially or fully off-set 'soft service' and roads infrastructure DC charges in strategic areas (as London currently does within Downtown, Old East, Industrial areas), no examples have been found where a municipality has instituted soft service and arterial roads area rating within their urban areas that differentiates distinct service areas where different area charges are calculated. This is likely for the reasons noted above.

'Hard services' on the other hand include water distribution and sanitary and stormwater collection that typically consist of facilities and linear assets that generally serve a defined area. As previously noted, the City does not provide these services beyond the Urban Growth Boundary. As such, these distinct urban and rural service areas allow for different charges to be calculated for these services.

Within urban areas, a large majority of municipalities in the Province continue to implement city-wide uniform charge for hard services within their urban areas, as is currently the practice in London. There are a few examples where area rating for certain hard services has been applied, but these are generally for new growth areas as a result of an urban growth boundary expansion. One exception is Halton Region which has region-wide DC rates for all services except water/wastewater. These services are area rated based on their built area boundary which also follows defined service catchment areas. However, their DC rates relating to water and wastewater capacity (plant expansions for example) remain to be calculated on an urban-wide uniform basis given the difficulty in identifying area-specific infrastructure related to capacity projects.

In London, delineating service areas within the urban area presents additional challenges. Services are highly integrated and do not follow identical geographic catchments or policy boundaries. There are several issues and information gaps including:

- appropriate services to area rate and logical service area boundaries where a service and associated costs can be clearly distinguished from the same service in a different area;
- limited knowledge and experience to predict the precise location and timing of intensification given the recent adoption of the new London Plan growth framework. This is an essential input in determining the benefiting population that is needed when creating an area rate development charge, and this limited knowledge base creates challenges with determining required infrastructure and timing for rate calculation purposes.
- capital costs that will be needed to support intensification, and where those costs are most likely to be incurred; and,
- implementation issues such as how to allocate existing debt servicing costs; how to manage multiple development charge reserve funds for the same service and how to forecast growth in respective areas once area boundaries have been determined (e.g. the "built area boundary" will inevitably not align and may overlap with service boundaries)

iv. Area Rating vs. Financial Incentives

Area rating is not an explicit financial incentive in that it seeks to better apportion infrastructure costs based on the delineation of distinct service areas and a refined allocation of the servicing requirements to the specific area. Any rate differences between areas are generally the result of relatively large disparities in the cost of providing expanded services in one area over another.

In contrast, financial incentives do not reallocate costs through differential DC area rates, but rather subsidize the cost otherwise payable by the builder through taxpayer and water/sewer rate contributions. At present, the City provides program-based financial incentives based on policy boundaries to encourage development in specific areas, including the Downtown and Old East village residential construction incentive, Industrial DC incentives and Institutional DC discounts. The qualifying criteria for these types of incentives are generally found in Community Improvement Plan program guidelines.

Should Council choose to proceed with area rating in the future, decisions will need to be based on delineated service area boundaries. Any differentiated rate that is made based on policy boundaries that do not align with a distinct service areas would need to be provided as a financial incentive.

WORK TO DATE DELINEATING DISTINCT SERVICE AREAS

Over the past few years, the City has embarked on studies that should assist in providing information to help identify distinct service areas, particularly within the City's core including:

- the Core Area Servicing study (CASS) which is concluding and has, among other things, identified preliminary key areas where investment in infrastructure will be required to permit intensification. It has also identified the method the City intends to use to determine the growth share of these expenditures, and the "benefit to existing" share that will be borne by taxpayers and ratepayers in relation to the replacement element of these projects;
- the Pollution Prevention and Control Plan (PPCP) which will provide the City with a road map for the identification and implementation of infrastructure improvement projects that will mitigate the impacts of wet weather sewer system overflows into the Thames River; and,
- Rapid Transit planning, which will require some replacement and potential resizing of services to support growth.

These studies will provide critical information for future analysis to determine whether the amount of development anticipated through intensification would be disproportionate to the infrastructure costs needed to serve the area.

The discussions related to establishing differential DC rates should continue following the collection of a critical mass of this information. This information, once collected, will form the basis of further analysis and discussions on area rating – what services, what areas, and how costs should be allocated between areas. This information will form the basis of future area rate calculations.

Next Steps

While Staff in principle supports the concept of area rates, it is not recommended that this matter proceed as part of the 2019 DC Background study beyond the urban/rural differentiation. The results of the review and associated analysis has concluded that there are several issues and information gaps that need to be resolved in order to clearly distinguish different service areas and advance a defensible rate calculation at this time. However, it is recommended that area rating be pursued beyond the 2019 DC study. This will allow the following to occur:

- gain experience with the new London Plan growth framework to more accurately predict the precise location and timing of intensification locations and infrastructure demands. These are essential inputs in determining the benefiting population that is needed when creating an area rate;
- undertake further studies to assist in providing information to help identify suitable services and logical service area boundaries where a service and associated costs can be clearly distinguished from the same service in a different area; and
- identify the projects necessary to service estimated growth within delineated sub-areas and compile calculation information in a defensible manner.

Based on the above, it is expected that these tasks can be completed and an area rating policy brought forward for Council consideration by 2021. Options for future area rating may not only include lands with the existing urban area; these could also include any future urban growth boundary expansion area as these areas would represent a clearly delineated new service area where costs and growth can be directly attributed. The policy would also be used to inform the area-rating review discussion as part of the 2024 Development Charges Background Study.

DISCUSSIONS WITH DC EXTERNAL STAKEHOLDERS

The matter of DC area rates has been discussed with the DC External Stakeholder Committee on several occasions.

The Urban League of London is in favour of area-rating. Due to the complexities and information gaps in delineating, implementing and administering area-rates, they support continuing the area-rating policy review beyond 2019 to achieve a defensible approach that can be implemented for the 2024 DC Bylaw.

The London Development Institute (LDI) and London Home Builders Association (LHBA) have expressed concerns with area-rating. LDI further expressed objection to the implementation of area rates in the 2019 DC by-law time frame, suggesting the timing is too compressed to allow for changes in development business plans.

CONCLUSION

As outlined above, Staff is currently not in a position to recommend a defensible approach to conducting area rate calculations for the 2019 DC Study beyond those for urban/non-urban services. However, it is recommended that further analysis be completed in the coming years as some of the missing information becomes available or more refined. Further, assuming there is a basis for differentiation of charges and delineation of a boundary for those charges, it is recommended that the intention to pursue area rates beyond 2019 be confirmed and communicated to community stakeholders.

Acknowledgements

This report has been completed with the assistance of the DC Internal Steering Committee members, including management representatives from Planning, Finance and Engineering.

PREPARED BY:	SUBMITTED BY:
KEVIN EDWARDS, MCIP, RPP MANAGER, DEVELOPMENT FINANCE DEVELOPMENT & COMPLIANCE SERVICES	PAUL YEOMAN, RPP, PLE DIRECTOR, DEVELOPMENT SERVICES
RECOMMENDED BY:	
GEORGE KOTSIFAS, P. ENG MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL	

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- cc. Anna Lisa Barbon, Managing Director, Corporate Services and City Treasurer
- John Fleming, Managing Director, Planning and City Planner
- Gregg Barrett, Manager, Long Range Planning and Research
- Edward Soldo, Director - Roads and Transportation
- Scott Mathers, Director - Water and Wastewater