



Information Package
New Development Cost Charge Bylaw No. 06-65
June 27, 2007

The new Development Cost Charge Bylaw has been approved by the Provincial Government and was adopted by City Council on May 24, 2007.

The following pages include:

- Bylaw 06-65 – Development Cost Charges Bylaw
- Implementation Guidelines
- December 7, 2006 Committee of the Whole Report
- Frequently Asked Questions

For information about subdivision Development Cost Charges, contact Stephen Stern or Jeff Mitton.

Stephen Stern
Senior Development Technician
Land Development Section
Engineering Department
email: sstern@victoria.ca ph: (250) 361-0501

Jeff Mitton
Supervisor
Land Development Section
Engineering Department
e-mail: jmitton@victoria.ca ph : (250) 316-0298

For other Development Cost Charge information, contact Thom Pebernat or Duane Blewett.

Thom Pebernat
Zoning Administrator
Planning & Development Dept.
Development Services Division
email: tpebernat@victoria.ca ph: (250) 361-0284

Duane Blewett
Planning Technician
Planning & Development Department
Development Services Division
e-mail : dblewett@victoria.ca ph : (250)361-0359

To view the Development Cost Charge Bylaw and other relevant information, please visit our website at www.victoria.ca and click on « What's New ».

DEVELOPMENT COST CHARGES BYLAW NO> 06-65

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is

- (a) to update the Development Cost Charges Bylaw by repealing and replacing the City's Development Cost Charges Bylaw No. 95-122, and
- (b) to provide funds to assist the City to pay the capital costs of providing, constructing, altering, or expanding transportation, water, drainage, and sewage facilities, and of providing and improving parkland.

In setting the development cost charges in this Bylaw, the Council has taken into consideration

- (a) future land use patterns and development, and the phasing of works and services within the City, and
- (b) whether the charges are excessive in relation to the capital cost of prevailing standards of service, will deter development, or will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land in the City.

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Schedule A – Development Cost Charges

Under its statutory powers, including sections 932 to 937.1 of the *Local Government Act*, the Council of the City of Victoria enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "DEVELOPMENT COST CHARGES BYLAW".

Definitions

- 2 In this Bylaw, unless the context otherwise requires:

“attached dwelling”

means a building that

- (a) is used or designed as 3 or more self-contained dwelling units, and
- (b) does not contain a dwelling unit wholly or partly above another dwelling;

“building permit”

means a building permit, issued under the City’s Building Bylaw, authorizing the construction, alteration, or extension of a building or structure;

“commercial”

means a building or structure used or intended to be used to carry on one or more businesses,

- (a) including but not limited to, the sale or provision of goods, meals, transient accommodation, entertainment or services,
- (b) and excluding industrial, institutional, or residential uses;

“comprehensive development”

means a development that is comprised of 2 or more of the following uses: residential, commercial, institutional or industrial;

“detached dwelling”

means a building having independent exterior walls and containing only one self-contained dwelling unit;

“development cost charges” or “DCC”

means the applicable DCC Rates prescribed in Schedule A;

“industrial”

means a lot used or intended to be used for industrial uses, including but not limited to warehousing, wholesale, manufacturing, processing, assembly, testing, distribution, servicing and repairing of products or materials;

“institutional”

means a building or structure used or intended to be used for non-profit cultural, recreational, religious, social, library, school, government, hospital, or educational purposes;

“multiple dwelling”

means a building or portion of building containing 3 or more self-contained dwelling units, one or more of which are wholly or partly above another dwelling unit;

“self-contained dwelling unit”

means a suite of rooms in a building designed for occupancy of one family, and which includes kitchen, toilet and bathroom facilities;

“site area”

means the whole or a portion of the parcel to be improved as part of the development authorized by a building permit,

- (a) including all vehicular and pedestrian circulation areas, loading, parking, storage, works, decorative areas and landscaped areas belonging to the development, and
- (b) excluding land covered by water;

“total floor area”

means the total area of all floors in a building measured to the inside surface of the exterior walls, excluding areas required by the City to be provided for parking motor vehicles and storing bicycles;

“two family dwelling”

means a building comprising two self-contained dwelling units, but does not mean a detached dwelling containing a secondary suite.

Severability

- 3 Each portion of this Bylaw is intended to be independent to the extent that its invalidation by a court does not affect the validity of any other portion.

Payment of development cost charges

- 4 (1) A person who applies for approval of a subdivision or for a building permit must pay the applicable development cost charge prescribed in Schedule A at the same time the person’s subdivision application is approved or building permit is issued.
- (2) For a comprehensive development
- (a) development cost charges must be calculated separately for each use that is part of that comprehensive development, in accordance with Schedule A, and
 - (b) the development cost charge payable equals the sum total of the development cost charges calculated for each separate use.

Exemptions from payment

- 5 Section 4 [*payment of development cost charges*] does not apply in any of the circumstances exempted from payment by section 933 of the *Local Government Act* or successor legislation.

Effective Date

- 6 **This Bylaw comes into force and effect on October 1, 2007**

Repeal

7. Bylaw No. 95-122, the Development Cost Charges Bylaw, is repealed.

READ A FIRST TIME the 31st day of August, 2006

READ A SECOND TIME the 31st day of August, 2006

AMENDED the 25th day of January, 2007

READ A THIRD TIME the 25th day of January, 2007

ADOPTED on the 24th day of May, 2007

CORPORATE ADMINISTRATOR

MAYOR

Schedule A
Development Cost Charges
(In Dollars)

	Transportation	Water	Drainage	Sewage	Parkland Acquisition	Parkland Development	Total Development Cost Charge		When Payable
Detached Dwelling	1,576.31	218.85	212.50	974.50	1,432.62	604.04	5,018.82	per lot	Subdivision Approval
Duplex Dwelling	1,916.30	437.70	425.01	1,948.99	2,865.23	1,208.08	8,801.31	per lot	Subdivision Approval
Attached Dwelling (Townhouse)	8.15	1.61	0.98	7.15	10.51	4.43	32.83	per m2 of total floor area	Building Permit Issue
Multiple Dwelling (Apartment)	12.17	1.55	0.78	6.91	10.16	4.28	35.85	per m2 of total floor area	Building Permit Issue
Commercial	15.46	0.96	0.68	4.29	1.26	0.53	23.18	per m2 of total floor area	Building Permit Issue
Industrial	1.55	0.39	0.48	1.75	0.52	0.22	4.91	per m2 of site area	Building Permit Issue
Institutional	15.46	0.96	0.68	4.29	1.26	0.53	23.18	per m2 of total floor area	Building Permit Issue

**CITY OF VICTORIA IMPLEMENTATION GUIDELINES
DEVELOPMENT COST CHARGE BYLAW NO. 06-65.**
(Dec 7, 2006 Committee of the Whole Report)

Guidelines

1. Subdivision applications submitted after the effective date of the “new” DCC Bylaw will be subject to the “new” DCC Bylaw rates.
2. Building permit applications submitted after the effective date of the “new” DCC Bylaw adopted by Council will be subject to the “new” DCC Bylaw rates.
3. Subdivision applications that are denied by the Approving Officer prior to the effective date are not eligible for the “old” DCC Bylaw rates if the applicant reapplies for approval after the effective date.
4. If CSA has lapsed after the effective date and within one year of the adoption of the “new” DCC Bylaw under Section 943 of the *Local Government Act*, the applicant will not be eligible for the rates under the “old” DCC Bylaw.
5. If final subdivision approval has not been given within one year of the adoption of the “new” DCC Bylaw, the “new” DCC Bylaw rates will apply to the subdivision on approval unless the applicant was entitled to approval prior to the expiration of one year, i.e. the approving officer has not signed the plan by that time but the applicant has fulfilled all the conditions of approval.
6. For in-stream subdivision applications where the DCCs are levied and payable at the subdivision approval stage, applicants may elect:
 - a. in writing to have their DCCs calculated according to the “new” DCC Bylaw rates immediately, i.e. to waive the applicant’s rights under Section 943 of the *Local Government Act*; or
 - b. to have their DCCs calculated under the previous DCC Bylaw rates if the subdivision is approved within one year of the adopted date of the “new” DCC Bylaw.
7. For a building permit application which is complete and received prior to the effective date of the Bylaw, where the DCCs are levied and payable at the building permit stage, the applicant may:
 - a. elect in writing to have the DCCs calculated according to the “new” DCC Bylaw rates; or
 - b. to have DCCs calculated under the previous DCC Bylaw rates if the building permit is approved by the effective date of the “new” DCC Bylaw.
8. If the building permit received before the effective date of the Bylaw is refused, or has not been approved and all related conditions of approval fulfilled, the applicant will not be eligible for the rates under the “old” DCC Bylaw, with respect to the subject application nor upon re-application.

Definitions

“Complete Building Permit application” shall mean:

A building permit application for which Architectural/Engineering letters of assurance are complete and acceptable to the Chief Building Inspector or designate; zoning is in place; any required planning, heritage and development-related permits and approvals are secured; necessary lot consolidation has occurred; all architectural, geo-technical, structural, plumbing, electrical, mechanical, site drainage and sprinkler drawings, where applicable, are submitted; all application fees and development cost charges are paid; and all off-site legal encumbrances relating to engineering servicing have been registered at the Land Title Office.

“In-stream subdivision application” shall mean:

Any subdivision application for which the application submission requirements have been completed, including payment of the application fees and all required supporting documentation have been submitted and accepted by the City, but has not been granted final approval by the City.

Committee of the Whole Report



Date: December 7, 2006
To: Mayor and Council
From: Mike McCliggott, Acting City Manager
Deb Day, Director of Planning & Development
Department: Planning and Development
Subject: Proposed Amendments to Development Cost Charge Bylaw No.06-65

Executive Summary:

The purpose of this report is to recommend amendments to the Development Cost Charge (DCC) Bylaw, currently at third reading, and the related *Transition Policy*, to reflect more recent advice on current practices with respect to implementation. Since Council gave three readings to the Bylaw on August 31, 2006, staff has received more information from the consultants regarding the approaches being considered in other municipalities and Provincial preferred practice. On this basis, staff recommends that Council consider amending the Bylaw to set an effective date of October 1, 2007 for the updated DCC Bylaw and make changes to the *Transition Policy* to instead provide *Implementation Guidelines*. The revised approach would still meet the intent of the previous recommendations to try to address concerns raised by the development industry as well as the Provincial preferred practices.

Recommendations:

That Council:

1. Rescind third reading of Bylaw No. 06-65 and give third reading to Bylaw No. 06-65, amended by deleting section 6, including its heading, and substituting the following:

“Effective Date

6. This Bylaw comes into force and effect on October 1, 2007.”
2. Replace the draft *Transition Policy* approved on August 31, 2006 and approve the *DCC Implementation Guidelines* in Attachment 1.
3. Direct staff to prepare the related amendments to the Building Bylaw to operationalize this approach for Council’s consideration.

Respectfully submitted,

Mike McCliggott
Acting City Manager

Deb Day, Director
Planning & Development Department

DD:aw
Attachments

1. Purpose

The purpose of this report is to recommend amendments to the Development Cost Charge Bylaw currently at third reading and the related implementation approach to reflect recent advice on current practices with respect to implementation.

2. Background

On August 31, 2006, Council gave first, second and third readings to the proposed Development Cost Charge (DCC) Bylaw No. 06-65, as well as considering the draft *Transition Policy* related to the updated DCC Bylaw.

On that basis, staff and the City's consultant, Urban Systems, have been finalizing the report necessary to accompany the submission of the proposed DCC Bylaw to the Minister of Community Services. During this period, staff has been advised by the consultant that the proposed *Transition Policy* approach may not reflect the current Ministry preferred practice and interpretations of the BC courts, and that an alternate approach would be advisable. On the basis of this new information, staff recommends that Victoria adopt an approach similar to that being considered at the City of Richmond instead of the approach originally proposed.

3 Issues

(a) Grandfathering In-stream Applications

Section 943 of the *Local Government Act (LGA)* provides protection so that "in-stream" subdivision applications are subject to the "old" DCC Bylaw rate for one year after the date the Bylaw was adopted by Council, subject to meeting some conditions. However, the *LGA* does not provide any authority for similar protection for building permits or other types of applications. During the consultation phase, the development industry representatives, including the Urban Development Institute (UDI), asked that other types of "in-stream" applications be afforded similar protection.

In consideration of this request, staff proposed and recommended a draft *Transition Policy* to attempt to allow a "grandfathering" period for "in-stream" building permits and development permits, which Council approved and is referenced in the proposed DCC Bylaw, which is currently at third reading. However, there has remained concern with this approach in that, from a legal perspective, only the provision allowing protection for subdivision has been upheld. Given this perspective and a similar review in Richmond, staff would now recommend that Council amend the proposed DCC Bylaw and the draft *Transition Policy*. This change would be consistent with the *LGA*'s provisions with respect to "grandfathering" of "in-stream" subdivision applications only.

(b) Delayed Effective Date of Bylaw

It is proposed that the question of "in-stream" building permits be addressed in a more straight-forward manner through delaying the effective date for implementation of the DCC Bylaw and, consequently, the rate changes related to building permits. The proposed delay would address the development industry's concern with the need to mitigate the impact of DCC increases for "in-stream" applications other than subdivisions, which was the intention of the draft *Transition Policy* which staff brought forward in August 2006.

The proposed DCC rates were publicly available as Bylaw No. 06-65 which was brought forward to Council for consideration on August 31, 2006. If Council considers these amendments in December 2006 so the submission to the Province can be finalized, review and approval by the Ministry could be anticipated early in 2007, with subsequent Council approval of final reading of the Bylaw.

Staff believes that, given the magnitude of the proposed DCC increases, at least one year from August 31, 2006 would provide appropriate notice to allow the development industry to make the necessary adjustments. Accordingly, staff are recommending that all complete building permit applications submitted prior to October 1, 2007 will be subject to the current "old" DCC Bylaw rates. This would reflect a further one-month delay after August 31, 2007, which would be the end of the traditional summer holiday period. This Bylaw effective date would be consistent with the intent of addressing the concerns raised by UDI and others regarding the timing of the Bylaw implementation.

4. Analysis

(a) (i) Subdivision Applications for One and Two-family Residential Lots

DCCs will be levied and paid for at the time of subdivision approval for one and two family dwellings. According to section 943 of the *LGA*, a subdivision application that was submitted to the City's Approving Officer (AO), accompanied by the applicable subdivision fee, prior to the adoption of a DCC Bylaw, is not affected by that Bylaw for one year after the date Council adopted the Bylaw. This is referred to as an "in-stream" application.

An applicant with an "in-stream" subdivision application has one year after the date the DCC Bylaw was adopted to fulfill the conditions of approval and be legally entitled to obtain subdivision approval from the Approving Officer (the AO signs the subdivision plan enabling it to be filed in the Land Title Office) in order to be eligible to pay the "old" DCC rates at the time of the approval. If the conditions of approval are not fulfilled until after the period expires, the "new" DCC rates will apply on approval of the subdivision. Any subdivision application received after the effective date of the Bylaw would be required to pay the "new" DCC rate, as set out in Bylaw No. 06-65. This would cause some delay in receiving the higher rate from new applications but the revenue potentially lost is modest, given the limited number of low density residential subdivisions in the City.

(ii) Building Permit Applications for All Other Development Types

With respect to all other development types, DCCs are paid at the building permit stage. Any complete building permit application for these categories received by the City prior to October 1, 2007 would pay the "old" DCC Bylaw rate. A complete building permit application means a building permit application for which the Architectural/Engineering letters of assurance are complete and acceptable to the Chief Building Inspector or designate; all architectural, geo-technical, structural, plumbing, electrical, mechanical, site drainage and sprinkler drawings, where applicable, are submitted; zoning is in place; any required planning, heritage and development-related permits and approvals are secured; necessary lot consolidations have occurred; all application fees and development cost charges

are paid; and all off-site legal encumbrances relating to engineering servicing have been registered at the Land Title Office. If the building permit application and its conditions are not secured and fulfilled before the Bylaw effective date (October 1, 2007), the “new” DCC rates will apply. The onus is on the building permit applicant to ensure that all City approvals are in place prior to October 1, 2007.

It is anticipated that it will be necessary to bring forward to Council some proposed amendments to the Building Bylaw to ensure clarity and consistency to operationalize this approach, which may also involve some procedural changes.

The revised approach will delay implementation of the new DCC rate payment related to building permits until after October 1, 2007 with a consequent loss in revenue. However, compared to the *Transition Policy* approach previously recommended, the revised approach will be more straight-forward and eliminate any exceptions related to “in-stream” Development Permits, consistent with the current practice preferred by the Ministry, which is consistent with the courts’ interpretation of the legislation. The original recommendation related to the *Transition Policy* would have allowed Development Permit applications that were “in-stream” at the time of Bylaw adoption some protection to make a complete building permit application. The effect of the delay in the Bylaw’s effective date will largely achieve the same result in a clearer manner.

4 a) Options

- Continue with the DCC Bylaw implementation as originally recommended.

Staff can no longer recommend this option due to more recent advice from the City’s consultants regarding the Provincial preferred practices and advice that the legality of it is questionable.

- Change the DCC Bylaw implementation to Delay Effective Date of Bylaw

Based on recent advice, staff recommends this option to better match Provincial preferred practices for legal compliance, to still address the concerns raised by the development industry and to allow for some period of adjustment.

4 b) Resource Implications

It must be recognized that the delay in the Bylaw’s effective date may encourage developers and builders to bring forward building permit applications in advance of the new rates which will have work volume consequences for staff and all of those involved in the approval processes, not just for subdivision and building permits but also for zoning and development permits, including Council. This will likely be especially pronounced as the deadline nears, which is why the effective date was not proposed for August 31, 2007, one year from Council’s original consideration, but rather extended one month beyond the traditional summer holiday period.

There would be other timing options which were considered but not recommended, such as setting an effective date for the DCC Bylaw of nine months after August 31, 2006,

which would be May 31, 2007. The advantage of an earlier date from the City's perspective would be earlier implementation of the higher DCC rates and the resulting increased revenue. However, the development industry may feel a full year from August 31, 2006 would better enable adjustment to these rates and better reflect their earlier input to Council.

5. Conclusion

As a result of more recent information, staff is not recommending any changes to the DCC Bylaw scope or rates but simply to the implementation strategy. Staff originally recommended an approach intended to provide a one-year grace period for all application types, not just low-density residential subdivisions as already provided for in the *LGA*. The proposed approach would generally achieve the same objectives, be more straight-forward and legally defensible and not likely be as problematic during the Provincial review phase.

6. Recommendation

In order to put the recommended changes into effect, Council will need to rescind third reading of Bylaw No. 06-65 and amend the relevant sections of the Bylaw at second reading to reflect the delay in effective date. The recommended *DCC Bylaw Implementation Guidelines* would replace the previously recommended *Transition Policy*. Some related changes to the City's Building Bylaw will be necessary to operationalize this approach.

June 27, 2007

Development Cost Charges

Frequently Asked Questions

On May 24, 2007 the City of Victoria adopted a new Development Cost Charge (DCC) bylaw. The new DCC rates are now in effect (see attached rate schedule). The new rates apply to new residential subdivision and multi-family residential, commercial, industrial and institutional building development applications. The effective date of the bylaw is **October 1, 2007**. The detailed implementation guidelines for the application of the DCC bylaw are attached for information. A copy of the adopted DCC bylaw is available from Legislative Services at Victoria City Hall.

The following questions and answers are meant to provide a brief overview of the basis of the updated DCC rates. Please contact Stephen Stern (subdivisions) at 361-0501 or Thom Pebernat at 361-0284 for further details.

Q What was the process to establish the new DCCs?

A

- The City developed a comprehensive list of engineering and parkland acquisition and development projects that will benefit future growth
- The amount of residential, commercial, industrial and institutional growth was estimated to 2026
- Draft DCC rates were based on the DCC capital program and the future growth
- Initial meetings were held with the development community in the spring of 2006 and a public meeting held in August 2006 to receive comments and suggestions related to the proposed DCC rates
- Numerous meetings were held with City Council throughout 2006 and early 2007
- The final DCC rates and bylaw were presented to City Council in early 2007 for their approval
- The DCC rates were reviewed by the Ministry of Community Services and a DCC bylaw adopted by the City on May 24, 2007

Q Who pays DCCs?

A Applicants for:

- subdivision approval to create a detached or duplex dwelling site
- building permits to construct or alter multi-family residential, commercial, industrial, and institutional development

Q Why do we have DCCs?

A

- To pay for the costs of expanding and upgrading the City's engineering transportation, water, sanitary sewer and drainage infrastructure to meet the needs and impacts of growth
- To purchase and develop new parkland in developing areas to meet the needs of growth

Q What works do DCCs pay for?

A

- Arterial road upgrades to address additional traffic due to urban growth, intersection and traffic calming road improvements and pedestrian and bicycle facilities
- Water, sanitary and drainage works to meet the needs of growth
- Purchase of parkland and park development to address needs of growth

Q What items do DCCs not pay for?

A

- Operation and maintenance of existing City engineering infrastructure or parkland
- New or upgrading works needed for the existing population
- New libraries, fire halls, police stations or any parks and recreational buildings

Q How are DCCs levied?

A

- DCCs for single family and duplex development will be levied per lot and will be collected at subdivision approval
- DCCs for multi-family, commercial and institutional development will be levied per square meter of building area and collected at building permit issuance
- DCCs for industrial development will be levied per hectare of site area and collected at building permit issuance

Q Are there any exemptions from the DCCs?

A

- Developments authorizing building permits for construction of a building that is tax exempt as per the *Local Government Act*
- Developments authorizing building permits for projects involving residential development of less than four self-contained dwelling units
- Developments authorizing a building permit where the value of work less than \$50,000

Q. I plan to make an application for rezoning in mid-June and wish to complete my building permit application before October 1, 2007. Is there any possibility this can happen? If so, what date would be the latest for me to have my rezoning application in to the Development Services Division?

A

The rezoning process typically takes between six and eight months, not including a month required for neighbourhood consultation. Following approval of a rezoning application, a complete building permit application would need to be submitted before October 1, 2007. It is not possible, therefore, to make a complete application for a building permit before October 1, 2007 if you are submitting a rezoning application in mid-June or later.

Q. I plan to make a heritage alteration permit application for a site that requires neither rezoning nor a variance and wish to complete my building permit application before October 1, 2007. Is there any possibility this can happen? If so, what date would be the latest for me to have my heritage alteration permit application in to the Development Services Division?

A.

It may be possible if your complete application does not include any variances and is submitted no later than July 27, 2007 - the deadline for the August 14, 2007 meeting of the Heritage Advisory Committee. Subsequently, the application with report would have to be advanced to the September 6, 2007 meeting of Committee of the Whole and City Council's September 20, 2007 meeting. Applicants are advised to submit their building permit plans to the Permits and Inspections Division before October 1, 2007.

Q. I plan to make an application for a development permit for a site that does not require rezoning and wish to complete my building permit application before October 1 2007. Is there any possibility this can happen? If so, what date would be the latest for me to have my development permit application in to you?

A

For a Development Permit with variance (or Development Variance Permit) application, you will be unable to obtain required approvals in time for submission of a building permit application before October 1, 2007. For a simple, complete Development Permit Application (without variances) submitted after August 1, 2007, approval is unlikely to be obtained in time for submission of the building permit application before October 1, 2007.