

## Development Services Standard Operating Procedure

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- Procedure:** Oversized services and third party benefit of oversized services
- Subject:** Expectation and procedure on the design, construction and compensation for oversized improvements as outlined in the Development Agreement Parameters
- Covers:** Development Services Division
- Effective:** October 1, 2018
- Purpose:** The Development Plan, Master Plans and Secondary Plans identify infrastructure (transportation, water, wastewater, stormwater) networks to service existing and new development areas. The network infrastructure includes oversized infrastructure that will benefit lands beyond the lands in which they are constructed and would not have otherwise been installed on the alignment or to the capacity required by the City. In conjunction with the above noted plans, the City reserves the right to identify oversizing based upon operational requirements.

The purpose of the parameter is to clarify the requirement for oversized infrastructure, developer reimbursement and cost recovery to design and construct the oversized infrastructure.

The purpose of this Standard Operating Procedure is to define the operational process of the parameter for requiring and approving oversized infrastructure, and calculating and recovering any additional costs incurred to construct oversized infrastructure by way of a development agreement.

\*Where there is any conflict between the policies and procedures adopted by the City of Brandon and the policies and procedures set forth in a collective agreement adopted by the City of Brandon, or policies and procedures set forth in a statute of the Provincial or Federal Government, the collective agreement of the Provincial or Federal statute shall supersede such other policies or procedures.

## **Procedure:**

### **Determination of oversizing requirement**

1. At the time of land use application for subdivision or rezoning, review of the proposed development will determine, based upon all associated City plans, the necessity for oversized infrastructure.
2. The Planning File Manager shall communicate on behalf of the City any oversized servicing requirements.
3. The Developer shall be required to submit conceptual site servicing drawings identifying the infrastructure requirements to service the development with consideration for neighbouring lands within the catchment area as identified by the City.

### **Calculating Cost Recovery of the Initial Developer**

1. Following review and acceptance of the conceptual site servicing drawings, the City and the Developer shall determine the eligible oversizing components. Engineering design, supply and installation of materials and land area will be considered. All costs shall be deemed eligible based upon the variance from servicing of the sole development as opposed to costs to serve the third party lands. Final recommendations made by City Administration to City Council on cost recovery calculations will be at the discretion of the Strategic Infrastructure section.
2. The Land Development Administrator shall prepare the Development Review Group Report to outline all conditions of the development agreement, which shall include the following:
  - a. The requirement to oversize the infrastructure and infrastructure type(s)
  - b. Eligible costs to be paid to the Developer by the City;
  - c. The total cost recovery;
  - d. The Benefitting Land map.

3. The formula for calculating the cost recovery will be based on the following:

	Quantities as noted on the City's accepted record drawings for oversizing benefit
x	Unit prices as accepted by the City.
+	Design and construction costs as accepted by the City, if applicable.
+	Loss of developable land, value as approved by the City, if applicable.
+	Interest costs, where applicable and in accordance with the Development Agreement Parameters, in which are applied annually on the anniversary of the Construction Completion Certificate for the infrastructure.
=	Total cost recovery to initial developer

4. The Development Review Group Report will accompany the land use application Planning report as an attached schedule. All conditions as recommended in the report and approved by Council shall be mirrored in the development agreement.
5. The Land Development Administrator will register the development agreement on title.
6. The Land Development Administrator will enter all pertinent tracking information in the City's development tracking database as well as create "property alerts" on all benefitting lands, as identified on the Benefitting Land map, in the City's permitting software and mapping database.
7. The Developer will not be entitled to receive payment by the City for the oversizing until issuance of a Construction Completion Certificate for the infrastructure.

#### **Determination of third party benefit of oversizing**

1. At the time of land use application for subdivision or rezoning, review of the proposed development will determine the benefit from oversized services previously constructed by an initial developer.
  - a. The Land Development Administrator will review the City's development tracking database as well as search for any "property alerts" on the City's permitting software and mapping database.
  - b. The Engineering Department will confirm the capacity allocated to the benefitting third party
2. The File Manager will communicate on behalf of the City, the requirement of contributions by the benefitting third party towards the oversized infrastructure.

#### **Calculating Cost Recovery of the Benefitting Lands**

1. Cost recovery will be calculated on a per hectare basis and the density allowed under the applicable zoning of the benefitting property. Should a benefitting developer require less capacity for their development than what was originally designed for in the oversized infrastructure, the benefitting developer will still be required to contribute costs equal to the maximum capacity allocated to their lands at the time of design of the oversized infrastructure.
2. The formula for calculating the cost recovery will be based on the following:  
Total cost recovery to initial developer as approved by the City  
 Proportionate division of benefitting properties on a per hectare basis.

+ Bank of Canada Prime Rate plus 1%, if applicable

= Total cost per benefitting property

*Note:* Should properties within the oversizing catchment have varied zoning, an area equivalency calculation will be applied to each property

3. The Land Development Administrator shall prepare the Development Review Group Report to outline all conditions of the development agreement, which shall include the following:
  - a. The formula calculated to determine the total cost recovery to the City
  - b. The formula calculated to determine the total cost of the benefitting property
  - c. The total cost per benefitting property contribution
  - d. The Benefitting Land map.
4. The Development Review Group Report will accompany the land use application Planning report as an attached schedule. All conditions as recommended in the report and approved by Council shall be mirrored in the development agreement.
5. The Land Development Administrator will register the development agreement on title.
6. Costs recovered from the benefitting property from the oversized services will be collected at the time the third party developer executes the development agreement and paid to the City. In the absence of a development agreement, costs recovered from the benefitting lands will be payable to the City upon issuance of a development permit.

#### **Appeal process**

1. Should a Developer and/or property owner wish to appeal the total cost of recovery, formal notice shall be provided, in writing, to the City Engineer, with a copy to Strategic Infrastructure.
2. Upon receipt of the appeal, the City Engineer will arrange a Technical Advisory Committee of three (3) city staff, including the City Engineer, to review the appeal and all supporting documents to the oversizing design from the Developer/property owner and from the Strategic Infrastructure section.
3. A meeting with the appellant, Strategic Infrastructure and the Technical Advisory Committee shall be scheduled for presentation of documentation.
4. Final decision on cost recovery calculations will be at the sole discretion of the Technical Advisory Committee. The Technical Advisory Committee shall prepare and sign off a notice of decision which shall be incorporated into the development agreement for the benefitting third party land or provided to Corporate Services for cost recovery to the Developer completing the installation of the oversized infrastructure.

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