

Development Agreement Parameter

Parameter: Oversized Services and Developer Reimbursement

Subject: Expectations for design, construction, and compensation for oversized improvements

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

The purpose of the 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.

1. INTRODUCTION

- a. Development Agreement Parameters express the general development agreement policy of the City of Brandon. They are guidelines for the City's Administration and Developers in formulating development conditions for consideration by City Council and its relevant Committees. Each development will be governed by its respective development agreement, not by these guidelines although the Development Agreement Parameters will be followed with few exceptions.
- b. The purpose of the Development Agreement Parameters are to ensure that all parties pay their equitable share of the costs of development, that development agreement obligations are consistent for all developments and that development occurs in accordance with the latest City of Brandon Municipal Servicing and Design Standards, City of Brandon Construction Specifications and any applicable policies and bylaws.

2. INSTALLATION OF OVERSIZED SERVICES BENEFITTING OTHER THAN THE DEVELOPER

- a. Where the City requires installation of oversized infrastructure to or through a new development, the development agreement will require the Developer to install the oversized infrastructure at their initial expense.
- b. Costs associated with the oversizing component of the infrastructure will be paid back to the Developer in accordance with the DEVELOPER REIMBURSEMENT section.
- c. Capacity allocated to third party benefitting lands at the time of oversizing by the developer will be designated for specific third party benefitting lands on an area and density basis and will be limited to capacity as designed within the oversized services.
- d. WASTEWATER SEWERS
 - i. The development agreement may provide that a Developer, at no expense the City, construct and install all wastewater sewers complete with manholes and appurtenances, thereto, including pumping stations

required to serve the development including services in boundary roads and lanes.

- ii. Where the City requires wastewater sewers to be larger than necessary to serve the development and other benefiting third party lands, the development agreement may require cost recoveries in accordance with the DEVELOPER REIMBURSEMENT and COST RECOVERY BY THE CITY sections. Such oversized wastewater sewers shall be designated as oversized services for specific third party lands at the time of acceptance of conceptual plans by the City, or earlier, and no cost recovery payments for oversize will be made unless the sewer has been established as oversize at the time.
- iii. The City shall in no case be liable for additional capacity costs of wastewater sewers that are 300 mm (12 inches) internal diameter or less.

e. LAND DRAINAGE SEWER AND RETENTION PONDS

- i. The development agreement may provide that a Developer, at no expense to the City, construct and install all land drainage sewers complete with manholes and appurtenances thereto, including retention ponds, linear waterways and facilities in adjacent lands for the conveyance of land drainage runoff from the subdivision to the existing land drainage collection system required to serve the development, including services in boundary lanes and roads.
- ii. When the City requires these facilities to be larger than necessary to serve the development and other benefitting third party lands, the development agreement may require cost recoveries in accordance with the DEVELOPER REIMBURSEMENT and COST RECOVERY BY THE CITY sections. Such oversized land drainage facilities shall be designated as oversized services for specific third party lands at the time of acceptance of the conceptual plans by the City, or earlier, no cost recovery payments for oversize will be made unless the sewer has been established as oversize at the time.

- iii. The City shall in no case be liable for additional capacity costs of land drainage sewers that are 600 mm (24 inches) internal diameter or less.

f. WATER

- i. The development agreement may provide that a Developer shall, at no expense to the City, construct and install all watermain and appurtenances thereto, and facilities for the extension for the required services to the existing distribution system required to serve the development, including services and facilities required in boundary lanes and roads.
- ii. Where the City requires a watermain to be larger than necessary to serve the development, the development agreement may require cost recoveries in accordance with the DEVELOPER REIMBURSEMENT and COST RECOVERY BY THE CITY sections. The development agreement shall provide that such oversized watermain are to be designated as oversized services at the time of acceptance of conceptual plans by the City, or earlier, and no cost recovery payments for oversize will be made unless the water has been established as oversize at the time.
- iii. The City shall, in no case, be liable to pay for any additional capacity for watermain that are 200mm (8 inches) internal diameter or less.

3. DEVELOPER REIMBURSEMENT

- a. Where the installation of oversized infrastructure was required by the City to serve third party lands, the City shall define within the development agreement the eligible costs of oversizing as approved engineering design, supply and installation of materials, and land area. 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. The cost or value of land will be determined by the City upon the appraised market value of raw acreage that has development potential.
- b. Where the installation of oversized infrastructure was required by the City to serve third party lands, the development agreement will provide that the City reimburse

to the Developer the costs associated with the third party benefit, subject to and upon funding being approved by City Council.

- c. Where funding cannot be provided for the cost of the oversizing third party benefit, City Council may approve payment to the initial Developer by way of a repayment schedule plus interest as determined by the City.
- d. Except where it would be inequitable to do so or beyond the powers of the City, interest will be added to the cost (compounded annually) from the first anniversary date of Construction Completion Certificate of the infrastructure to the date of payment at a rate equal to the Bank of Canada Prime Rate plus 1.0% immediately preceding the date of Construction Completion Certificate;

4. COST RECOVERY BY THE CITY

- a. Where the land of a third party directly benefits from services installed by an initial Developer and where the initial Developer was reimbursed by the City for the third party benefit, the City will covenant in a development agreement with the third party Developer to recover all costs associated with the direct benefit.
- b. In circumstances where application of such interest would be inequitable or beyond the power of the City the cost recovery may be at whatever amount is recoverable within the City's powers;

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