



# Chapter 1

## Introduction



# 1. Introduction

## 1.1 Background

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Watson & Associates Economists Ltd. (Watson) was retained by the Town of Halton Hills (Town) to undertake a Recreation & Parks Rates and Fees Strategy.

Municipalities are empowered by Part XII of the *Municipal Act*, 2001 to impose fees and charges for the recovery of municipal services provided or for the use of municipal property. As such, this forms the statutory basis for municipalities to impose user fees for recreation and parks services.

Watson has worked with the Town in undertaking their Planning Application User Fees Review in 2017, and while there are some similarities in costing recreation and parks user fees compared with processing user fees (e.g. planning fees) there are some notable differences. The primary difference is that full cost recreation and parks user fees should be designed to recover programming, operations and maintenance costs, as well as capital replacement costs. These capital replacement costs are more significant for recreation and parks services when compared to other municipal services e.g. application processing user fees. Moreover, in undertaking the Recreation & Parks Rates and Fees Strategy, balance should be sought between the recovery of these fixed capital-related costs and maximizing the utilization of services. With respect to other municipal user fees, the fee design may be intended to economize or ration service usage. These fixed cost recovery aspects of recreation and parks user fees is an important consideration in developing the ultimate fee design because cost recovery must be balanced with service utilization to prevent the downward spiral of price-induced reductions in service utilization leading to reduced cost recovery.

The key objectives of the Rates and Fees Strategy are:

1. Establish the full costs of service using an activity-based costing methodology
2. Develop a Recreation and Parks User Fee Policy Framework
3. Make fee recommendations to maximize cost recovery while having regard for legislation, policy recommendations, and input from the general public and staff

A further objective that was pertinent to the above objectives was the directive to consider the nexus of levels of subsidy provided for services and the associated



community benefit of providing those services. This directive is embraced in the Recreation & Parks Strategic Plan, whereby it is recommended that the Town move away from the current market approach of setting fees to appropriate cost recovery thresholds grounded in the “public good”. This recommendation has been embraced in this review through the use of the Pyramid Methodology, which is described in more detail in Section 3.2.

## 1.2 Study Process

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The study process that has been followed in undertaking the Recreation & Parks Rates and Fees Strategy is presented below:

1. Fee Categorization and Model Development – January-July, 2019
2. Focus Group Meeting\* – April 23, 2019
3. Public Open House\* – April 30, 2019
4. Community Survey\* – April 25 – May 16, 2019
5. Review Preliminary Costs – May 21, 2019
6. Review Draft Policy Framework – June 14, 2019
7. Preliminary Findings and Recommendations – July 16, 2019
8. Focus Group/Open House\* – September 24, 2019
9. Presentation to Senior Management Team (SMT) – January 15, 2020
10. Presentation to Council – February 10, 2020

\*Denotes component of Public Engagement Strategy

## 1.3 Legislative Context for Recreation & Parks Rates and Fees Review

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*The Municipal Act, 2001*, came into force January 1, 2003. Part XII Fees and Charges, gives municipalities the statutory authority to recover the costs of services, including capital, through by-law. The following subsections provide reference to the relevant statutory provisions of the *Municipal Act* and associated regulation.

### 1.3.1 *Municipal Act – Part XII*

“By-laws re: fees and charges

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391. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to impose fees or charges on persons,
- (a) for services or activities provided or done by or on behalf of it;
  - (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
  - (c) for the use of its property including property under its control.

#### Local board

- (1.1) A local board may impose fees or charges on persons,
- (a) for services or activities provided or done by or on behalf of it;
  - (b) for costs payable by it for services or activities provided or done by or on behalf of any municipality or other local board; and
  - (c) for the use of its property including property under its control.

#### Deferred benefit

- (2) A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time.

#### Costs related to administration, etc.

- (3) The costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets.”

The above referenced sections of the *Municipal Act* indicate that it is permissible for municipalities to impose user fees for the recovery of administration, operating and capital costs associated with services that are provided either directly or on its behalf. Section 391 of the *Municipal Act* does not define a methodology for calculating a user fee or charge, as such, fees and charges may be determined at the reasonable discretion of Council following some general restrictions.



#### “Restriction, poll tax

393. No fee or charge by-law shall impose a poll tax or similar fee or charge, including a fee or charge which is imposed on an individual by reason only of his or her presence or residence in the municipality or part of it.

#### Restriction, fees and charges

394. (1) No fee or charge by-law shall impose a fee or charge that is based on, is in respect of or is computed by reference to:
- (a) the income of a person, however it is earned or received, except that a municipality or local board may exempt, in whole or in part, any class of persons from all or part of a fee or charge on the basis of inability to pay;
  - (b) the use, purchase or consumption by a person of property other than property belonging to or under the control of the municipality or local board that passes the by-law;
  - (c) the use, consumption or purchase by a person of a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law;
  - (d) the benefit received by a person from a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law; or
  - (e) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.”

Adopting a fees and charges by-law, under Part XII, does not require a public process. Public process may be prudent for the situation or a requirement of the municipality's procedural by-law. A fees and charges by-law cannot be appealed to the Local Planning Appeals Tribunal on the grounds that the fees or charges are unfair or unjust. However, they may be challenged in court on the basis that the municipality is not operating within its statutory authority.



### **1.3.2 Ontario Regulation 584/06**

Ontario Regulation 584/06 governs the fees and charges provision of the *Municipal Act*. The fees and charges regulation was revised in 2006 by the *Municipal Statute Law Amendment Act*. The regulation in its present form is less prescriptive than its predecessor. The previous regulation (i.e. O.Reg. 244/02) limited by-laws for water and waste services to a 1-year period, required public process notification and meetings to substantiate any charges and expressly limited any charges to the costs of service. Furthermore, the previous restrictions whereby a municipality did not have the power to impose fees or charges under Part XII of the Act relating to the allocation of sewage and water capacity have been removed. These changes to the fees and charges regulation provide municipalities with greater flexibility in determining its use.

It should be noted that in applying Section 391 of the *Municipal Act* for the recovery of capital costs a municipality must have regard for the associated regulation. Section 2(1) of the regulation indicates that a fee under the Act cannot be imposed to recover capital costs that are also included in a development charge or front-ending agreement which is in effect before the composition of the fee. This clause is provided to avoid a duplication of fees and charges for the same works. As the costs being considered within the Recreation & Parks Rates and Fees Strategy are predominantly for operating costs, and capital-related costs related to replacement capital needs which are ineligible for funding under the *Development Charges Act*, no duplication in cost recovery exists.