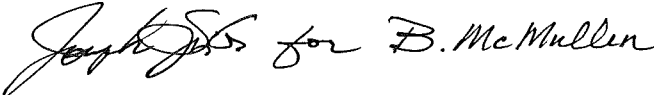


Hamilton

# INFORMATION UPDATE

<b>TO:</b>	Mayor and Members City Council
<b>DATE:</b>	December 23, 2019
<b>SUBJECT:</b>	Changes to the <i>Development Charges Act, 1997</i> , Effective January 1, 2020 - Bill 108/138 (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>SUBMITTED BY:</b>	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
<b>SIGNATURE:</b>	 for B. McMullen

This Information Update is to inform members of City Council that some sections of Schedule 3 of the *More Homes, More Choice Act, 2019* (Bill 108) and Section 1 of Schedule 10 of the *Plan to Build Ontario Together Act, 2019* (Bill 138), have been proclaimed to come into force as of January 1, 2020.

Specifically, these sections amend the *Development Charges Act, 1997*, S.O. 1997 c.27 (DC Act) with respect to the timing of payment for specific types of development, freezing of the DC rate based on planning application dates, aligning front-ending agreements with the instalment dates and general housekeeping changes to accomplish the foregoing.

Section 1 of Schedule 10 of Bill 138 removes Industrial Development and Commercial Development from the list of specific development types that will pay DCs in instalments which were included in the initial list contained in Bill 108.

This Information Update details the net changes that will take effect as of January 1, 2020.

## **Development Charges Instalments (Section 8(1) of Schedule 3 Bill 108)**

As per Section 26.1 of the DC Act as of January 1, 2020, the following types of development will no longer be required to pay DCs at permit issuance and will commence payment of DCs at occupancy for a set number of instalments:

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- Rental housing development that is not non-profit housing development (six annual instalments commencing at occupancy);
- Institutional (six annual instalments commencing at occupancy);
- Regulation language has not been released at time of writing. This category is expected to include long-term care homes, retirement homes, universities and colleges, memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion and hospices; and
- Non-Profit Housing (21 annual instalments commencing at occupancy).

The City is permitted to charge interest on the amounts outstanding from permit issuance until payment at an interest rate that cannot exceed a prescribed rate (no such rate has been prescribed to date).

In the short term, City staff will be applying the Bank of Canada Prime rate plus 0.25% (currently 3.95% + 0.25% = 4.2%). Compounding will be semi-annual, consistent with the City's existing DC Deferral program. This rate is viewed by staff as a very conservative rate as it is below the expected typical rate of construction financing that a developer may otherwise incur. Further, it is expected to offset any interest costs incurred by the City due to an increase in the need to debt finance infrastructure projects resulting from the delayed cash inflow from the now mandatory deferred instalments.

Through the provincial consultation, the City requested that the Province provide definitions for each type of development which will be required to pay DCs in instalments. The associated amendments to DC Act Regulation 82/98 which would provide additional definitions for Rental, Institutional and Non-Profit Housing have not been released by the Province at the time of writing. Conversations with the Municipal Finance Officers' Association indicate that this Regulation language is expected by December 27, 2019.

Staff will provide a further information update once this new regulation language is released, reviewed and assessed to determine any remaining definition gaps.

### **Determination of Development Charge Rates (Section 8(1) of Schedule 3 Bill 108)**

As of January 1, 2020, Section 26.2 of the DC Act will determine the DC rate charged for a development based on the application date of the applicable Site Plan Application or Site-specific Zoning Amendment. This change does not apply to developments for which Site Plan Applications or Site-specific Zoning Amendments were applied for before January 1, 2020.

The City is permitted to charge interest on the development charge from the date of the planning application to the date the development charge is payable at an interest rate that cannot exceed a prescribed rate (no such rate has been prescribed).

In the short term, City staff will be applying the Bank of Canada Prime rate plus 0.25% (currently 3.95% + 0.25% = 4.2%). Compounding will be semi-annual, consistent with the City's existing DC Deferral program. This rate is viewed by staff as a reasonable rate as it currently approximates rate of construction cost increases (CANSIM Table 18-10-0135-01). This policy will only apply to developments where the planning application was received after January 1, 2020. It is anticipated that a more robust policy will be formalized prior to building permits being impacted.

**Front-ending Agreement Changes (Section 12 of Bill 108) and Other Housekeeping (Section 9 and 13(6) of Bill 108)**

There are other changes coming into effect on January 1, 2020 that do not significantly impact the City.

The City does not utilize front-ending agreements as defined by the DC Act and therefore, changes to bring those agreements in line with the instalment payment structure for specific types of development are not relevant to the City.

There are also housekeeping amendments being enacted which were required to accomplish the foregoing changes.

The Province has not yet proclaimed the entirety of Schedule 3 of Bill 108. Specifically, Sections 2, 3 (1)-(3), (5), 4, 5 (2), (3), 6, 7, 8 (2), 10, 11, and 13 (1)-(4) have not been proclaimed into force. The changes that have not yet been proclaimed into force include:

- Reclassing Waste Diversion as a 'hard service';
- Removal of 'soft services' from the DC Act by listing only the services that may be included in a DC by-law;
- Changes to the rules for the statutory residential intensification credit; and
- Transitional provisions related to the 'soft services' and a Community Benefits Charge (CBC) By-law.

**Community Benefits Strategy**

Note that the sections of Schedule 3 and Schedule 12 (*Planning Act*, R.S.O. 1990 c. P. 13) of Bill 108 which address the future Community Benefits Strategy and By-law have not been proclaimed. The City is anticipating additional information from the Province related to the proposed financial cap of a CBC to be released for consultation early in 2020.

**Next Steps**

City staff will provide a further update once the language to amend Regulation 82/98 of the DC Act related to defining the types of development that will pay DCs in instalment payments has been released.

City staff will be requesting Council to formally adopt the interest policy for instalment payments and the freezing of DC rates via Council Resolution early in the New Year.

**APPENDICES AND SCHEDULES ATTACHED**

None

BM/dt