

**City Council****Motion without Notice**

MM13.27	ACTION			Ward: All
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**Response to Proclamation of Development Charges Act changes effective January 1, 2020 - by Councillor Ana Bailão, seconded by Councillor Gary Crawford**

*\* This Motion has been deemed urgent by the Chair.*

*\* This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

**Recommendations**

Councillor Ana Bailão, seconded by Councillor Gary Crawford, recommends that:

1. City Council request the Province to delay proclamation of the Development Charges Act changes until January 1, 2021, to allow for further engagement with the City, in order for the City to outline the significant impacts of these changes on the City's finances, and to provide municipalities with adequate time to consult with stakeholders on updated policies and processes.

2. If Council's request in Recommendation 1 is unsuccessful:

I. As permitted under Section 26.2 (3) of the Development Charges Act, City Council authorize the Chief Financial Officer and Treasurer to apply escalation charges to the "frozen" development charges payable for Site Plan and Rezoning Applications received on or after January 1, 2020 and before November 1, 2020:

a. at a rate of 1.5 percent per month consistent with the rate imposed under the City's Financial Control By-law for charges added to property taxes that are outstanding from the date of the Site Plan or Rezoning application to the date of payment; and

b. so as to limit the total amount of interest payable with a goal of achieving revenue neutrality based on the previous Development Charges Act regime.

II. As permitted under Section 26.1 (7) of the Development Charges Act, City Council authorize the following interest charges for the new mandatory deferral and installment payments for rental, institutional and non-profit housing developments:

a. For development applications that provide financial security in a form satisfactory to the Chief Financial Officer and Treasurer, such as a letter of credit, interest charges

will be applied based on the City's cost of capital calculated from the date the development charges would have been payable under Section 26 of the Development Charges Act (e.g. building permit) to the date the instalment is paid.

b. For development applications that have not provided financial security in a form satisfactory to the Chief Financial Officer and Treasurer, interest charges will be applied at the higher of:

- i. the Canadian Bank Prime rate plus five percent; or
- ii. the market rate for construction financing as determined by the City's Chief Financial Officer and Treasurer

calculated from the date the development charges would have been payable under Section 26 of the Development Charges Act (e.g. building permit) to the date the instalment is paid.

III. City Council authorize the Chief Financial Officer and Treasurer, the Chief Planner and Executive Director, City Planning and the Chief Building Official and Executive Director, Toronto Building to execute any other necessary agreements, in a form acceptable to the Chief Financial Officer and Treasurer and the City Solicitor, or take any other necessary actions related to the administration of the Development Charges By-law and requirements of Bill 108, as deemed appropriate to protect the City's financial interests including a review of the City's Development Charges By-law policies.

## **Summary**

On December 16, 2019, the City became aware that the Lieutenant Governor of Ontario posted notice that certain Development Charges Act changes under Bill 108 and Bill 138 will come into force on January 1, 2020. These changes will require the City to immediately adopt certain new administrative processes to ensure an orderly transition and to preserve revenue neutrality. Key legislative amendments that come into effect on January 1, 2020 are as follows:

1. Development charges rates are to be "frozen" at the time of planning application
  - a. Effective January 1, 2020, the City's development charges rates and exemptions will be "frozen" based on the date a site plan or rezoning application is received for a particular development, whichever is later, thereby amending the current practice of calculating development charges with rates in effect on the date of building permit issuance. The City is permitted to charge interest on development charges starting from the date the planning application is received until the date of payment. Provincial regulations will establish how long the benefit of frozen rates will persist.
2. Mandatory deferral and installment payments for rental, institutional and non-profit housing
  - a. Collection of development charges for rental housing developments and institutional uses will be deferred from first building permit issuance until first occupancy and collected in six annual installment payments over the course of five years.
  - b. Development charges for non-profit housing will be deferred from first building permit issuance until first occupancy and collected in 21 annual installments over 20 years.

- c. The City is permitted to charge interest on the installment payments starting from the date of building permit issuance.
- d. Regulations have yet to be released that provide for definitions of the developments that are subject to mandatory deferrals and installment payments; however, the Province has advised that they will be released before the day of proclamation.

The City is committed to creating vibrant and livable complete communities and supports the goal of creating new and affordable housing.

Under the Development Charges Act, the City is required to pass an updated Development Charges By-law every five years. The purpose of the Development Charges By-law is to ensure the City is collecting monies through development to ensure that growth pays for growth – i.e. to pay for the utilities and services to support the development in the municipalities where it occurs. Development Charges are critical to ensuring good, sustainable development in the City.

On April 24, 2018, the City passed its most recent updated Development Charges by-law. This followed extensive consultation with the development industry to ensure the new Development Charges rates achieved a balance between accurately reflecting the costs of growth, and ensuring the new rates and payment schedules encouraged the development of new housing in the City. This included a scheduled Development Charges rate increase on November 1, 2020. The industry agreed and did not appeal the new Development Charges by-law.

Under Bill 108, the Development Charges Act provisions to be proclaimed on January 1, 2020 require the City to adopt new administrative processes and expose the City to new Development Charges collection and revenue risk.

City processes must be updated in response to the significant changes to the way development charges are calculated and collected, such as the new requirement to track the date of receipt of planning applications for development charge purposes. There could be an unusually large number of applications and re-applications received in 2020 in order to qualify for rates in effect before the scheduled development charges rate increase on November 1, 2020. Also, the City requires a process for tracking, collecting and applying interest to newly deferred development charges payments for specified development types.

In terms of revenue risk, developers will be able to lock in development charges rates by submitting or resubmitting planning applications on or after January 1, 2020 and thereby avoid the City's next rate increase scheduled on November 1, 2020 (approximately \$4,500 for each two-bedroom apartment unit). Development Charge By-law exemptions would also be frozen, restricting the effectiveness of changes to the City's discretionary exemptions. Additionally, the Province has yet to provide measures to ensure collection, such as financial security, priority lien status for outstanding charges added to the property tax roll, or the requirement to register agreements on title to land.

In light of the administrative and revenue implications of the Development Charges Act changes staff recommend that Council authorize interim actions to help manage the transition to the new Act and help preserve revenue neutrality of the changes.

These recommendations include i) an escalation factor to adjust frozen development charges payment obligations over time; ii) interest rates to reflect costs and risks where development charge collections are newly subject to mandatory deferrals in the effort.

Staff would undertake to report back with further changes once there is an opportunity to more fully assess the impacts and options.

**Background Information (City Council)**

Member Motion MM13.27