

Education Development Charges and Missing Middle Housing Forms - Supplementary Report

Date: March 13, 2024

To: City Council

From: Interim Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report responds to Planning and Housing Committee's direction to City Planning to engage in discussions with the Toronto Catholic District School Board on its recently adopted Education Development Charges By-law that applies education development charges on certain types of missing middle housing forms, such as laneway suites and garden suites, and report directly to the March 20, 2024 City Council meeting with any additional information.

RECOMMENDATIONS

The interim Chief Planner and Executive Director, City Planning recommends that:

1. City Council receive this report for information.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendation included in this report. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its February 28, 2024 meeting, the Planning and Housing Committee recommended that City Council request the Province of Ontario to amend the *Education Act* for the purpose of adding secondary dwelling units to the list of exempted properties, regardless of whether the secondary dwelling unit is created within or ancillary to the principal residence. The Committee also directed the Interim Chief Planner and

Executive Director, City Planning to engage in discussions with the Toronto Catholic District School Board on this matter and report directly to the March 20, 2024 City Council meeting with any additional information.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PH10.13>

COMMENTS

For development within the City of Toronto, Education Development Charges (EDCs) are imposed by the Toronto Catholic District School Board (TCDSB) under the *Education Act* and are used to fund the acquisition of school sites and related costs to accommodate growth-related pupil needs. The City of Toronto collects EDCs on behalf of the TCDSB and remits the funds collected to the school board monthly, as required by the *Education Act*. The TCDSB is responsible for setting the education development charge rates and applicable policies.

At its November 27, 2023 meeting, the TCDSB adopted EDC By-law 2023 No. 195 to replace its 2018 EDC by-law. EDC By-law 2023 No. 195 came into effect on December 3, 2023, and applies for a five-year period with the following rate schedule for each dwelling unit.

Table 1: Residential EDC Rate per Dwelling Unit

| Category | Effective Dec 3, 2023 to Dec 2, 2024 | Effective Dec 3, 2024 to Dec 2, 2025 | Effective Dec 3, 2025 to Dec 2, 2026 | Effective Dec 3, 2026 to Dec 2, 2027 | Effective Dec 3, 2027 to Dec 2, 2028 |
|--|---|---|---|---|---|
| Residential EDC Rate per Dwelling Unit | \$3,293 | \$3,593 | \$3,893 | \$4,193 | \$4,493 |

As part of its process, the TCDSB undertook the required background study and review of its EDC policies, and held public meetings on October 19 and 25, 2023, with notice given in the newspaper.

Secondary Dwelling Units - City and Education Development Charges

Prior to Bill 108, *More Homes, More Choices Act, 2019*, the *Development Charges Act* (DCA) and *Education Act* had identical exemptions for secondary dwelling units. Both Acts exempted one or two additional dwelling units "within" existing single, semi-detached and row dwelling, with certain restrictions. The City and TCDSB could also establish non-statutory exemptions through their respective by-laws.

In 2018, the TCDSB adopted an EDC by-law that came into effect on December 3, 2018, with a non-statutory secondary dwelling unit exemption for additional units created "ancillary to" the principal residence.

In July 2022, City Council adopted a new Development Charges By-law 1137-2022 that came into effect on August 15, 2022. Where not exempted through the DCA, the City's 2022 DC by-law provided a new exemption for the second, third and fourth unit on a residential parcel provided the development of no more than four units on the lot – whether in the principal building or an accessory suite. In effect, this allows the construction of any combination of up to four units within or ancillary to an existing or new building, and the second to fourth units are exempt from development charges. In addition, the City continued a DC deferral program for ancillary dwelling units, if not exempted through the DCA or 2022 DC bylaw.

In September 2020, the Province proclaimed certain changes introduced through Bill 108 into effect which expanded the *Development Charges Act* exemption of the second and third dwelling units on the same lot to ancillary dwelling units and to new units, with certain restrictions. Previously the exemption only applied to additional units "within" an existing building, with certain restrictions. In November 2022, as part of Bill 23, *More Homes Built Faster Act*, the Province amended the *Development Charges Act* introducing exemptions for non-profit housing and proposed exemptions for affordable and attainable units that are included in the legislation but not yet proclaimed into force.

The Province only added the above exemptions to the *Development Charges Act* and not the *Education Act* governing EDCs.

In preparing its current by-law the TCDSB staff advised its Board that secondary dwelling units have the potential to accommodate additional pupils and that continuing to exempt ancillary secondary dwelling units has the potential to increase the unfunded education land costs. TCDSB staff recommended that the new EDC by-law incorporate only statutory residential exemptions. This would include secondary dwelling units built "within" an existing single, semi-detached and row house, with certain restrictions, but not secondary dwelling units that are ancillary to the principal residence, such as laneway suites or garden suites, or secondary dwelling units in new construction.

Aligning City and Education Development Charges in Support of Housing

The Official Plan identifies the importance of shared responsibility and collective action in advancing city building priorities across Toronto. Section 5.3.4, Leadership and Advocacy, states that the City must be a leader, demonstrating conviction and determination if Toronto is to flourish. Policy 1c) states that to achieve the goals and objectives of this Plan, the City will exert influence through policy levers and partnerships.

In advancing the Expanding Housing Options in Neighbourhoods policy program to facilitate more low-rise housing in residential neighbourhoods to meet the needs of a growing Toronto, Council has pulled both its planning and financial levers, including exemptions from development charges and parkland/cash-in-lieu for up to four units on a residential lot whether in the principal building or accessory suite, to increase housing choice and access. As an important partner, TCDSB has the opportunity to do the same through its EDC lever.

In a recent meeting with City staff, TCDSB staff advised that there are no plans to amend its 2023 EDC By-law to reintroduce a non-statutory exemption for secondary dwelling units ancillary to the principal residence. While this current position is disappointing, it is important to note that the TCDSB is demonstrating leadership in aligning its EDCs with city building priorities by amending its by-law to introduce other non-statutory exemptions. TCDSB is currently proposing an amendment to its 2023 EDC By-law to provide a specific exemption to Indigenous-led, City supported, affordable housing projects for which Toronto City Council has approved a waiver of development charges. The Board will consider the proposed by-law amendment at its March 20, 2024 meeting. This proposed amendment is a timely example of collective action coming out of City and TCDSB discussions on affordable housing and provides a model, short of legislative alignment, for bringing forward an amendment to reintroduce a non-statutory exemption for secondary units that are ancillary to the principal residence including laneway suites or garden suites.

TCDSB staff and City staff from Revenues Services, Legal and Toronto Building were consulted in the preparation of this report.

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SIGNATURE

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