

Committee of the Whole (2) Report

DATE: Tuesday, November 10, 2020

WARD(S): ALL

**TITLE: DEVELOPMENT CHARGE ADMINISTRATION UNDER BILL 108
AND BILL 197**

FROM:

Michael Coroneos, Deputy City Manager, Corporate Services and Chief Financial Officer

ACTION: DECISION

Purpose

To authorize staff to enter into a tri-party agreements with the Region of York to administer the Development Charge (DC) freeze and interest, as permitted under the Development Charges Act, 1997, as amended by Bill 108, More Home, More Choices Act, 2019 and Bill 197, COVID-19 Economic Recovery Act, 2020.

Report Highlights

- The Development Charges Act, 1997, as amended by Bills 108 and 197, permits:
 - Developers to freeze DCs at complete application of site plan or zoning applications; and
 - Municipalities to charge DC interest on frozen DCs.
- The City to align with the Region and enter into triparty agreements to administer the DC freeze and interest rate application.
- Additional cost recovery of City staff resources to administer Bill 108 regulations of the DC freeze and interest application.

Recommendation

1. That Council delegate authority to the Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer (CFO) to execute a tri-party

Development Charge Rate Agreement with the Regional Municipality of York, in a form satisfactory to the Deputy City Manager, Administrative Services and City Solicitor.

Background

Bills 108 (“More Homes, More Choice Act, 2019”) and 197 (“COVID-19 Economic Recovery Act, 2020”) received Royal Assent on June 6, 2019 and July 21, 2020, respectively, and came into force on January 1, 2020 and September 18, 2020, respectively. Together, the bills amended the Development Charges Act, 1997 to impact the way municipalities calculate and collect development charges.

Developments subject to the provision of either a site plan or zoning by-law amendment application submitted after January 1, 2020 can receive the benefit of “frozen” development charge rates and some development types can now defer the payment of the development charges and pay for same in installments.

One of the changes included in Bill 108, as amended by Bill 197, was the requirement for municipalities to freeze development charge (“DC”) rates at site plan application or zoning application and to allow certain types of development including rental housing and institutional development to defer their DC payments and allow for payments of same in six annual installments. Non-profit housing developments are permitted to defer their DC payments and pay for same in 21 annual installments, starting at occupancy. The requirement to freeze DC rates and to begin phasing payments went into effect on January 1, 2020. Prior to this, DCs were typically calculated and payable at the rates in effect at the time of building permit issuance (i.e., for large buildings DCs were payable at issuance of conditional footing/foundation permit).

As a part of these changes to the Act, a provision was also included to allow a municipality to charge interest over the period from when the DC rates are frozen to when they are paid and, in the case of deferred payment, charge interest from when the DCs would have been payable to the date the installment is paid.

Developers could lock in development charge rates for many years

The regulation released by the Province in response to the changes in the Act (section 11.2 of O. Reg. 82/98, as amended) provides for a two-year sunset clause that starts after their application is approved by Council to the time that a building permit is issued. It is now possible for developers to freeze their DC rate across multiple DC by-laws. The time to achieve approval of a development application is tied to a number of factors such as: the timing of application submission; quality of the applicant’s submission;

speed of applicant's response to review comments; status of the related Official Plan amendment (if applicable); the complexity of the application community response; appeals to the Local Planning Appeal Tribunal ("LPAT") by the applicant or a third party; timing of infrastructure delivery; and market conditions. As a result, there can be significant variability in the overall amount of time between application submission, Council approval and issuance of a building permit.

As this ability to freeze DCs could allow an applicant to lock in DC rates over a long period of time, this will result in a reduction in the amount of DCs that the City will be able to collect as compared to the previous regime is expected. Although it is difficult to determine the actual impact to DC collections in an approximate dollar figure, it should be noted that frozen rates would not be subject to the bi-annual indexing of the DC rates, and in some cases a development may freeze DC rates from the current DC by-law, while a new DC by-law may be in place at the time the DCs become payable.

Previous Reports/Authority

[DEVELOPMENT CHARGES INTEREST POLICY – UNDER SECTION 26.1 AND 26.2 OF THE DEVELOPMENT CHARGES ACT, 1997](#)

Analysis and Options

York Region is in the process of introducing DC Agreements to be executed by the landowner and the Region, in order to define the required dates that will trigger the DC freeze and stipulate the applicable DC interest rate. City staff initially contemplated not using the agreement process however, to maintain consistency with the Region it has been deemed beneficial to support the agreement process and enter into tri-party agreements with the Region and the landowners. The agreement will solidify the dates that trigger the DC freeze. There will also be associated fees with the agreement to allow the City to recover the increased costs of administering the DC freeze and interest calculation process. These fees are already included in the City's consolidated user fee by-law.

In consultation with the Region and the other local area municipalities, all York municipalities have also expressed interest in participating and entering into their own tri-party DC agreements with the Region.

Financial Impact

Entering into the triparty agreements with the Region will allow the City to collect additional user fee revenue to offset the staff costs associated with the administration of the DC by-law, tracking of DC freeze applications and the various agreements now required to facilitate development. The Development Charge administration fee of

\$600, which already exists within the City's Consolidated User Fee by-law, would be charged upon entering into the DC Agreements to freeze DCs along with the applicable Legal user fees. Total user fee revenue will fluctuate with the amount of site plan applications that are deemed complete by Planning.

The interest calculation will be based on the City's "Development Charges Interest Policy – Under Section 26.1 and 26.2 of the Development Charges Act, 1997" as attached above. This policy aligns with a similar policy executed by the Region and establishes an interest rate of 5% (compounded annually) for the DC freeze. It is difficult to estimate the anticipated revenue from interest as it is dependent on the timing of development.

Broader Regional Impacts/Considerations

There are no Regional impacts associated with this report, as staff are looking to join the Region in their agreement process to administer the DC freeze.

Conclusion

The Region is proceeding to enter into DC Agreements with Developers to administer the Bill 108 DC freeze and interest application. As these new regulations have increased the staff time to administer the legislative changes, City Staff propose to align with the Region and enter into triparty agreements to document the required dates and interest application as well as recover some of the staff costs.

For more information, please contact Nelson Pereira, Manager Development Finance, ext. 8393.

Attachments

N/A

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Approved by



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Corporate Services, City
Treasurer and CFO

Reviewed by



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