

Appendix C - 2019 Development Charges By-Law Policy Decisions
(from March 26, 2019 DC Report)

9. 2019 Development Charges By-Law Policy Decisions

The following are options for Council consideration for the amended by-law and reflect comparisons with other municipalities and Council reports during the past five years and input from the DC Working Group and the general public.

9.1 DC Exempt Areas

There are currently nine (9) geographic areas in the City that are exempt from DCs. These areas correspond to Downtown, Town Centre and/or Mixed Use Commercial designations in the City's Official Plan and represent the historic commercial areas of the former City of Sudbury and the former municipalities. The rationale for exempting these areas is to stimulate commercial and residential intensification in these strategic core areas. The areas that are exempt in the current DC by-law are:

- Downtown Sudbury
- Capreol Town Centre
- Chelmsford Town Centre
- Dowling Town Centre
- Garson Town Centre
- Hanmer Mixed Use Commercial Area
- Val Caron Mixed Use Commercial Area
- Walden Town Centre
- Flour Mill BIA

There is the opportunity through the DC background study to modify or remove the exempt areas from the by-law. The advantage to removing areas would be to eliminate any loss of DC revenue. The disadvantage to removing areas would be the loss of incentives to intensify fully serviced mixed use areas in the City. At this time, staff recommends that these areas remain the same.

There have been two requests received to date to expand the DC exempt areas, one in Walden and one in downtown Sudbury. The effect of these requests would be to exempt proposed multi-residential buildings from DCs. The areas lie outside of the Town Centre designation in Walden and outside of the Downtown designation in Sudbury and to allow the requests would be inconsistent with the rationale for why the exemption areas were originally established. Staff does not recommend that these areas be expanded.

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9.2 Affordable Housing

As part of developing the existing DC by-law in 2014, a clause was added that exempted affordable housing units from development charges, provided that the units remained affordable in perpetuity.

Through the creation of an affordable housing strategy per Council's Corporate Strategic Plan, Community Services Committee passed resolution CS2017-17 which directed staff to investigate changes to the Development Charges By-law to ensure that affordable housing criteria align with any Federal or Provincial Funding programs as part of the scheduled review in 2018-2019.

In July 2018, Council adopted the Affordable Housing Community Improvement Plan, which provides a framework and the ability for Council to provide financial incentives for the creation of affordable housing. The Affordable Housing CIP includes the ability to stack any Federal and/or Provincial incentives with Municipal Incentives, as a result the development charges by-law should permit the flexibility to align the requirements for DC exemptions with the Affordable Housing CIP. Therefore, staff recommends that DC by-law be revised to provide exemptions for affordable housing units subject to the proponents entering into an Affordable Housing Agreement with the City. This agreement would stipulate the terms and conditions for maintaining the affordability of the units.

9.3 Secondary Units (including Garden Suites)

In 2016, the City passed Official Plan and Zoning By-law amendments to permit a second unit in all single, semi detached and street townhouses subject to applicable zoning regulations. The amendments also permitted the second unit to be located in an accessory structure. Part of resolution PL2016-114 directed staff to bring forward a report on second units and development charges.

The issue with respect to DCs and second units is that there is a discrepancy between certain types of second units and the application of DCs. Essentially, there are three types of second units; 1) those that are created within an existing dwelling, 2) those that are created when a new home is built and 3) those that are created in an accessory building. The Development Charges Act provides statutory exemptions for second units created within an existing dwelling, provided that the gross floor area of the additional dwelling is less than or equal to the gross floor area of

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the dwelling unit already in the building. Currently there are no exemptions for second units in new builds or in accessory buildings, even though the impact on service levels is no different than second units in existing buildings.

The purpose of allowing second units within the City was to facilitate residential intensification and increase the diversity of affordable housing options. Now that the zoning framework is in place, staff recommend that the DC by-law be revised to exempt all second units from DCs in order to facilitate their creation.

9.4 Hospice and Non-Profit Long Term Care Homes

A hospice would be defined as “a facility providing end of life care for persons who are terminally ill and may include provision of palliative care”. A hospice would be exempt from DCs if it is exempt from property taxation determined in accordance with the Assessment Act (Section 23.1 of the Ontario Regulation 282/98 made under the Assessment Act).

Non-Profit Long Term Care Homes would be exempt from DCs if regulated under the Long Term Care Homes Act and exempt from property taxes in accordance with the Municipal Act (Section 3 Subsection 7.2).

9.5 Temporary Buildings

The existing DC by-law has an exemption for temporary buildings which have been constructed and demolished within a continuous period not exceeding eight months. The DCs would be payable when the temporary building is not demolished within the eight month period.

Staff is recommending a change in the by-law that DCs would be payable at the building permit stage which is consistent in process for all other types of buildings. If the landowner demolishes the building, they would receive a refund of DCs paid when the Chief Building Official is satisfied that the building has been demolished in accordance with the demolition permit that would be on or before eight months from the issuance date of the building permit.

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9.6 Residential DC Deferral Program (up to 6 months)

City Council approved a deferred development charges program for residential development in late 2015. This program is available where a building permit is issued for single detached dwellings, a semi detached dwelling, and multi-residential building which has not more than four units. This largely parallels the division in the City's Site Plan Control Areas By-law (By-Law 2010-220) between developments which require a site plan agreement and those that do not. The DCs are to be paid on the date which is the earliest of: a) six months from date of issuance of building permit; b) the issuance of the occupancy permit; or c) the sale or transfer of the property.

This deferral program does result in additional costs for the applicants to pay for the Restriction on Transfer to be registered on title of the property to ensure that the City collects the development charges if the property is sold or transferred before the 6 month period.

The Restriction on Transfer is one of the requirements along with other eligibility criteria in order to minimize risk of loss to the City before issuance of the building permit. Also, if the restriction requirement is removed, it would result in additional administrative staff time and costs to collect outstanding DC's and collection would not be guaranteed.

Since its implementation, a total of three applications have been received and approved for a total of five residential properties. Therefore, staff recommends that this deferral program be eliminated due to the low usage of this deferral program over the past three years.

9.7 Greenhouses and Buildings Relating to Cannabis Production

Further to the reports presented to City Council on "Municipal Implementation of Cannabis Act" in late 2018 and early 2019, recreational cannabis was legalized on October 17, 2018 by the federal government. The federal Cannabis Act provides the regulatory framework to legalize, regulate, and restrict access to cannabis. The provincial government passed legislation to regulate usage, licensing, retail sales and distribution of cannabis and cannabis related products in Ontario. As a result, there may be an increase in building permit applications relating to cannabis production. Greenhouses or any type of buildings relating to cannabis are not exempt from DCs as it does not meet the definition of farming. One of the requirements for a building to be considered a farm building is to be located on land designated for farming and must have a farm registration number.

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This item has been included in this report for clarification purposes with the recent legalization of cannabis in late 2018. Staff recommends that buildings relating to cannabis production do not meet the definition of a farm building in accordance with the Building Code Act and would not be exempt from development charges.

9.8 Annual Indexing Date and Effective Date

Existing by-law annual indexing date is July 1st of each year. Staff recommends the annual indexing rate to continue to be July 1st of each year. The index used is the most recent 12-month change in the Non-Residential Building Cost Price Index (NRBCPI) as released by Statistics Canada for the Ottawa region.

9.9 Payment of DCs

The City's by-law continues to require payment of the Development Charge before the issuance of the building permit. There is no recommendation for deferral or payment plan based on review of other cities as most require development charges to be paid before the building permit is issued and in accordance with the DC Act.