

Strategic Priorities and Policy Committee

To: Chair and Members
Strategic Priorities and Policy Committee

From: Anna Lisa Barbon, Deputy City Manager, Finance Supports

Subject: Development Charge Exemptions and Discounts

Date: September 19, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Finance Supports the following actions be taken:

- (a) This report, entitled, 'Development Charge Exemptions and Discounts **BE RECEIVED** for information; and
- (b) Civic Administration **BE DIRECTED** to incorporate funding requirements associated with statutory development charge exemptions and discounts into the 2024-2027 Multi-Year Budget, it being noted that adjustments may be made through the Annual Budget Update process as more experience is gained, including adjusting for any Provincial funding should it be received.

Executive Summary

There are several development charge (DC) exemptions and discounts that are legislated through the *Development Charges Act (DCA)* and the *Ministry of Training, Colleges and Universities Act*, as well as limited discretionary exemptions and discounts contained in the City's DC By-law. With the enactment of the *More Homes Built Faster Act, 2022*, the number of DC legislated exemptions and discounts has expanded. While the Provincial government has stated that it intends to ensure that municipalities are made whole for the additional exemptions and discounts through the *More Homes Built Faster Act, 2022*, it is unclear when or how municipalities will be reimbursed. Until Provincial reimbursement is received, it is recommended that an alternative funding source be established in the upcoming Multi-Year Budget.

Linkage to the Corporate Strategic Plan

This report is aligned with the City of London 2023-2027 Strategic Plan:

- Housing and Homelessness strategic area of focus and supports the outcome of a well-planned and growing community; and
- Economic Growth, Culture, and Prosperity strategic area of focus and supports the outcome of London encourages equitable economic growth and diversification.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

- Operational and Community Implications of the More Homes Built Faster Act, 2022 (formerly known as Bill 23), Strategic Priorities & Policy Committee, April 18, 2023
- Financial Implications of the More Homes Built Faster Act, 2022 (formerly known as Bill 23), Strategic Priorities & Policy Committee, April 18, 2023
- Bill 23, More Homes Built Faster Act, 2022, Information Report, Strategic Priorities & Policy Committee, November 22, 2022

1.2 Background

The DCA provides the legislative framework which municipalities must follow to levy DCs in Ontario. In addition to establishing the rules for setting DC rates, the DCA also includes several statutory DC exemptions and discounts and provides for municipalities to include discretionary exemptions and discounts into its DC By-laws.

DC Exemptions and Discounts

Statutory DC exemptions and discounts must be adhered to regardless if they are included in a municipalities DC By-law or not. Unlike discretionary incentives approved by Council, the City does not have the ability to modify or eliminate the statutory exemptions and discounts should they not accomplish their intended goal or Council's desire to re-allocate funding to other community priorities.

Prior to Bill 23, *More Homes Built Faster Act, 2022*, the DCA contained the following statutory exemptions and discounts:

- Land owned and used for the purposes of a municipality;
- Land owned by and used for the purpose of a school board;
- Industrial buildings with an enlargement of 50% or less; and
- The creation of additional residential units in new and existing buildings that meet certain conditions.

While not contained in the DCA, the *Ministry of Training, Colleges and Universities Act* provides an exemption for universities.

November 28, 2022, the Government of Ontario enacted Bill 23, the *More Homes Built Faster Act, 2022* that resulted in several changes to the DCA, including expanding the exemptions and discounts. This includes exemptions for the creation of residential units in certain existing rental residential buildings, existing houses and new residential buildings, non-profit housing development, affordable housing units subject to inclusionary zoning, and affordable and attainable residential units. While most of the exemptions and discounts are now in force and effect, the exemptions pertaining to affordable and attainable housing require regulations in order to provide municipalities with the rules for implementing the change. Until the regulations are proclaimed, these exemptions are not yet in force.

Discretionary DC exemptions and discounts are those that are not statutorily required, but rather established through Council policy. The DC By-law contains limited discretionary DC exemptions, most notably being the Institutional discount, which reduces the DCs payable by 50%. These have been funded from a dedicated tax supported reserve fund.

Funding DC Exemptions and Discounts

When determining whether DC exemptions and discounts must be funded from alternative funding sources or if the lost revenue can be absorbed into DC reserve funds, requires interpretation of Section 5(6)3 of the DCA which states:

'If the development charge by-law will exempt a type of development, phase in a development charge, or otherwise provide for a type of development to have a lower development charge than is allowed, **the rules for determining development charges may not provide for any resulting shortfall to be made up through higher development charges for other development.**'

The determination of DC rates requires incorporating existing reserve fund balances into the calculation. Once the growth-related capital costs are identified to service lands over the planning horizon, the balance of the reserve fund is netted from the calculations. As a result, if a municipality does not fund DC exemptions and discounts, they will be required to draw from the reserve fund. When the DC rate calculations are updated for the next DC Study, the DC reserve fund balance would be lower than it

would be if the DC exemptions and discounts were funded from another source, resulting in a higher DC rate to account for the reduced reserve fund balance.

Not funding DC exemptions and discounts would provide for the shortfall to be made up through higher development charges for other development, which is in direct conflict with Section 5(6)3 of the DCA. It is therefore recommended that DC exemptions and discounts be funded from alternative funding sources.

Growth-Related Project Deferrals

While not explicitly addressed in the DCA, project deferrals and accelerations are permitted. Adjusting the timing of projects is a mechanism that municipalities may use in order to respond to the pace of growth (i.e. defer projects when growth is slower and accelerate projects when growth is higher). This has been a common practice in the City of London and is the cornerstone of the Growth Management Implementation Strategy.

While deferring projects is an appropriate strategy and response to slower than anticipated growth, deferring projects to reduce financial pressures on DC reserve funds from not funding DC exemptions and discounts is not applicable. The lack of funding is not caused by slower growth, but by an inability to collect funds from growth that is occurring. Deferring projects that have been identified to meet growth demands when the pace of growth warrants those infrastructure investments would result in an infrastructure servicing delay and may delay the creation of new development. When overlaid against the Provincial governments commitment to build 1.5 million homes over the next ten years and the City of London's pledge to build 47,000 units by 2031, deferring infrastructure investments may impact London's ability to achieve its housing pledge target.

2.0 Financial Implications

Civic Administration estimates that based on historical data the annual funding need associated with currently known and in force DC exemptions and discounts could range from \$10.0 million to \$16.0 million per year over the 2024-2027 MYB period. While the exemptions and discounts may vary each year, the identified range is a reasonable estimate based on current information.

The Province has yet to release details about residential development that will qualify for DC exemptions under the *More Homes Built Faster Act, 2022* provisions for affordable and attainable housing. It was recently announced that these definitions will be provided in the fall of this year. Depending on the eligibility criteria, the impact of this could be significant given the current need and desire to provide affordable and attainable housing within the City. The City's own Roadmap to 3,000 units could trigger millions in exemptions depending on the final wording of the regulations and the nature of the developments constructed. When the definitions are provided, Civic Administration will review any potential impacts and will report back to Council as required.

In response to *More Homes Built Faster Act, 2022*, the Provincial government has committed to addressing funding shortfalls associated with the legislative changes. In written correspondence, the Minister of Municipal Affairs and Housing has stated, "We are committed to ensuring municipalities are kept whole for any impact to their ability to fund housing enabling infrastructure because of Bill 23." Details related to this commitment are unknown at the time of the submission of this report. There has been some signaling from the Province that grant funding may be provided should municipalities meet or exceed their identified housing targets. Further information on the approach to addressing the financial implications of *More Homes Built Faster Act, 2022* was not included with the recent Provincial budget.

The Province is moving forward with the audit process for the finances of six select municipalities. As part of the communication to move forward with the audits, the Province had identified the following:

“The province intends to use these audits to reach a shared understanding of any potential or perceived impacts of the *More Homes Built Faster Act* as regards changes to development-related fees and charges. This aligns with the province’s previous commitment to ensure that there is no funding shortfall for housing-enabling infrastructure as a result of the *More Homes Built Faster Act*, provided municipalities meet or exceed their assigned provincial housing targets.”

The findings of the audits are expected to be used to help develop future provincial policies and programs supporting long-term municipal financial sustainability and housing-related infrastructure investments. The results of the first phase of the audits are expected by the end of 2023.

Civic Administration will continue to monitor and track DC exemptions and discounts that are provided to qualifying developments. In addition, as audit results and findings are released and any changes are communicated, Civic Administration will provide additional information as it becomes available.

Conclusion

With the enactment of the *More Homes Built Faster Act, 2022*, the number of DC exemptions and discounts has increased. While the Provincial government has signalled that municipalities will be kept whole, municipalities have not yet received Provincial funding. Civic Administration will continue to track and monitor the DC exemptions and discounts associated with *More Homes Built Faster Act, 2022*, should Provincial funding become available. Until that time, it is recommended that Civic Administration incorporate funding requirements associated with statutory DC exemptions and discounts into the upcoming Multi-Year Budget adjusting for any Provincial funding as required.

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