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The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2021-F-16
Date: June 8, 2021

Subject:

Final Recommendations Regarding Amendments to Regional Transit Development Charge By-law No. 81-2017

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That Pursuant to Section 10(1) of the Development Charges Act, 1997, the Regional Transit Development Charges Background Study dated April 23, 2021 be adopted;
- B) That effective July 1, 2021, Regional Transit Development Charge By-law No. 81-2017 be amended, as set out in the amending by-law (Attachment No. 1) to address the changes to Development Charges Act, 1997, resulting from Bill 108: *More Homes, More Choice Act, 2019*, Bill 138: *Plan to Build Ontario Together Act, 2019*, Bill 197, *COVID-19 Economic Recovery Act, 2020* and O. Reg. 454/19;
- C) That the Regional Solicitor be instructed to prepare the requisite Development Charge By-law for presentation to Regional Council and passage;
- D) That the Regional Solicitor be instructed to revise future development agreements and any by-law(s) relating thereto to reflect any changes required to implement the foregoing recommendations and that any such revised by-law(s) be presented to Council for passage;
- E) That the Treasurer be instructed to prepare the requisite development charge pamphlet and related materials pursuant to the Development Charges Act, 1997; and
- F) That the Regional Clerk be instructed to follow the notification provisions pursuant to the Development Charges Act, 1997.

Report:**1. Purpose**

- 1.1 The purpose of this report is to provide the final recommendations regarding the amendments to Regional Transit Development Charge (DC) By-law No. 81-2017 as proposed in the Regional Transit DC Background Study released April 23, 2021.

2. Background

- 2.1 The recommended amendments to Regional Transit DC By-law No. 81-2017 are required to address the changes in the Development Charges Act, 1997 (DCA) resulting from Bill 108, More Homes, More Choice Act, 2019, Bill 138, Plan to Build Ontario Together Act, 2019, Bill 197, COVID-19 Economic Recovery Act, 2020 and O. Reg. 454/19.
- 2.2 The changes to the DCA that impact Regional Transit DC By-law No. 81-2017 include the following:
 - a. The timing and process for the collection of DCs;
 - b. The determination of the DC rates (i.e. freezing of DC rates); and
 - c. The broadening of exemptions for additional (secondary) units.
- 2.3 The Regional Transit DC Background Study contained the proposed by-law amendments. The background study was made available to Regional Council and the public (free of charge) beginning on April 23, 2021 as indicated in the public notices placed in the Toronto Star on April 24 and 28, 2021 and in the local Metroland newspapers throughout the Region over the time period April 22 to May 6, 2021.
- 2.4 An overview of the key recommendations contained in the proposed DC by-law and background study was provided in Report #2021-F-11: Public Meetings Regarding Proposed Amendments to Regional Transit Development Charge By-law No. 81-2017, GO Transit Development Charge By-law NO. 86-2001 and Regional Residential and Non-residential Development Charge By-law No. 28-2018.

3. Previous Reports and Decisions

- 3.1 The following reports provided updates to Regional Council on the status of the changes to the DCA and the related amendments required to Regional Transit DC By-law No. 81-2017:
 - a. Report #2021-INFO-30; and
 - b. Report #2021-F-11.

4. Proposed Regional Transit Development Charge By-law Amendments

Overview of Public Input Regarding Regional Transit Development Charge By-law Amendment

- 4.1 No verbal submissions were made at the public meeting of Council held to consider the proposed Regional Transit Development Charge By-law amendment and Background Study on May 26, 2021.
- 4.2 The Region received two phone calls regarding the proposed amendments, inquiring:
 - a. About the proposed changes and confirming that the implementation date was July 1, 2021; and
 - b. If there were any proposed changes to GO Transit Service.

Final Recommendations

- 4.3 There are no recommended changes to the proposed amending by-law as presented in the Regional Transit DC By-law amendment and Background Study released on April 23, 2021.
- 4.4 The recommended amendments to the Regional Transit DC By-law include:
 - a. Broadening the exemption for additional (secondary) units to apply to the creation of additional units within, or ancillary to prescribed new residential units; and
 - b. Modifying the DC By-law with respect to the collection of DCs and determination of the DC rate:
 - DCs for rental housing development and institutional developments (as defined in O. Reg. 454/19) are to be paid in six equal installments over five years, commencing the earlier of the date of issuance of occupancy permit or the date of first occupancy. The subsequent annual installments are due on the annual anniversary date of the first installment;
 - DCs for non-profit housing developments (as defined in O. Reg. 454/19) are to be paid in twenty-one equal installments over twenty years, commencing the earlier of the date of issuance of occupancy permit or the date of first occupancy. The subsequent annual installments are due on the annual anniversary date of the first installment; and
 - DC rates are locked in on the date of application for an approval of development in a site plan control area or, if this does not apply, the date an application for an amendment to a by-law passed under Section 34 of the Planning Act. The DC rates are frozen until two years from the date the site plan application or zoning application is approved and are only applicable for site plan and zoning by-law amendment applications received after December 31, 2019.

- 4.5 As the legislation allows municipalities to charge interest to recover the costs associated with the development charge deferral and / or the freezing of DCs, the recommended amending by-law provides a clause to allow for the application of interest charges. Regional staff are developing a Regional Development Charge Interest Rate Policy for future Committee and Council consideration.

5. Further Considerations by Regional Council Per DCA, 1997

Formal Consideration of Need for Further Public Meeting

- 5.1 If the proposed by-law is changed then Regional Council is required under the provisions of the DCA to consider whether a further public meeting is required. An additional public meeting would require public notices to be placed providing at least twenty days notice of such a public meeting.
- 5.2 Given that the final recommendations do not vary from the proposed amending DC by-law as provided in the Regional Transit Development Charge Background Study, a further public meeting will not be required, assuming the recommendations in this report are accepted and no change is made.

Direction to Regional Staff

- 5.3 Direction from Regional Council is required for the Regional Solicitor, Regional Clerk and Regional Treasurer to complete the various administrative tasks needed to implement the recommended Development Charge amendments. These tasks include the revision of development agreements, the production and distribution of a development charge pamphlet, and the necessary public notification provisions.

6. Relationship to Strategic Plan

- 6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Ensuring the Region's Transit DC By-law is in conformity with the DCA, supporting Goal 5 (Service Excellence).

7. Conclusion

- 7.1 It is recommended that the Regional Transit DC By-law amendment be approved as proposed in the Regional Transit DC Background Study.
- 7.2 This report has been reviewed by staff of the Planning & Economic Development, Works and Corporate Services - Legal departments who concur with the recommendations.

8. Attachments

Attachment No. 1: Recommended Development Charge By-law Amendment

Respectfully submitted,

Original Signed By

N. Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer

THE REGIONAL MUNICIPALITY OF DURHAM

BY-LAW NO. • XX-2021

a by-law to amend By-law No. 81-2017

WHEREAS section 19 of the *Development Charges Act, 1997*, S.O. 1997, c.27 (the “Act”) provides for amendments to development charge by-laws;

AND WHEREAS the Council of The Regional Municipality of Durham requires certain amendments to By-law 81-2017;

AND WHEREAS in accordance with the *Act*, a development charge background study has been completed in support of the proposed amendment to By-law 81-2017;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on the 26th day of May 2021 in accordance with the *Act*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed amendments;

AND WHEREAS the Council of The Regional Municipality of Durham has determined that a further public meeting is not necessary pursuant to Section 12(3) of the *Act*;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

1. Section 1 of By-law 81-2017 is hereby amended by adding the following definitions and renumbering the remaining definitions accordingly:
 - (t) “institutional development”, for the purposes of section 18(a) of the by-law, means development of a building or structure intended for use,
 - (a) as a long-term care home within the meaning of subsection 2 (1) of the Long-Term Care Homes Act, 2007;
 - (b) as a retirement home within the meaning of subsection 2 (1) of the Retirement Homes Act, 2010;
 - (c) by any of the following post-secondary institutions for the objects of the institution:
 - (i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
 - (ii) a college or university federated or affiliated with a university described in subclause (i), or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017;
 - (d) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
 - (e) as a hospice to provide end of life care.
 - (y) non-profit housing development, for the purpose of section 18(b) means development of a building or structure intended for use as residential premises by,

- (a) a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing;
 - (b) a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or
 - (c) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act.
- (ee) “rental housing” for the purpose of section 18(a) of the by-law, means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises.

2. Section 9 of By-law 81-2017 is hereby deleted and replaced with the following:

Exemptions

9(1) For the purpose of section 9, “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

9(2) Development charges shall not be imposed in respect to:

- (a) the issuance of a building permit not resulting in the creation of an additional dwelling unit;
- (b) the enlargement of an existing dwelling unit;
- (c) the creation of additional dwelling units in accordance with the following table:

| Description of Class of Existing Residential Buildings | Maximum Number of Additional Dwelling Units | Restrictions |
|---|---|--|
| Existing single detached residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings. | Two | The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building. |
| Existing semi-detached or row residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings. | One | The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building. |
| Existing rental residential buildings, each of which contains four or more dwelling units. | Greater of one and 1% of the existing units in the building | None |
| An existing residential building not in another class of residential | One | The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building. |

| | | |
|-----------------------------------|--|--|
| building described in this table. | | |
|-----------------------------------|--|--|

(d) the creation of a second dwelling unit in accordance with the following table:

| Description of Class of Proposed New Residential Buildings | Restrictions |
|--|---|
| Proposed new residential detached buildings that would not be attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units. | <p>The proposed new detached dwelling must only contain two dwelling units.</p> <p>The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.</p> |
| Proposed new semi-detached or row residential buildings that would have one or two vertical walls, but no other parts, attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units. | <p>The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units.</p> <p>The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.</p> |
| Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling and that are permitted to contain a single dwelling unit. | <p>The proposed new detached dwelling, semi-detached dwelling or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit.</p> <p>The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling or row dwelling to which the proposed new residential building is ancillary.</p> |

3. Section 10 of By-law 81-2017 is hereby deleted.

4. Section 16 of By-law 81-2017 is hereby deleted and replaced with the following:

Timing of Payment of Development Charges

16. Development charges, determined in accordance with section 19 and adjusted in accordance with section 23 of this by-law, are payable in full on the date on which a building permit is issued with respect to each dwelling unit, building or structure.

5. Section 18 of By-law 81-2017 is hereby deleted and replaced with the following:

18. Notwithstanding section 16, where development charges become payable after January 1, 2020 for development of:

(a) rental housing that is not non-profit housing development and institutional development, development charges shall be paid in equal annual instalments beginning on the earlier of the date of issuance of a permit under the Building

Code Act, 1992 authorizing occupation of the building and the date the building is first occupied, and continuing on the following five anniversaries of that date;

- (b) non-profit housing development, development charges shall be paid in equal annual instalments beginning on the earlier of the date of issuance of a permit under the Building Code Act, 1992 authorizing occupation of the building and the date the building is first occupied, and continuing on the following twenty anniversaries of that date;

6. Section 19 of By-law 81-2017 is hereby deleted and replaced with the following:

Determining Amount Payable

19. The development charges payable will be the development charge shown in the applicable Schedules to this by-law to be payable, with indexing under section 23, and, where applicable, with interest under section 24 of this by-law as of

- (a) for those developments to which section 18 applies,
 - (i) for applications filed after December 31, 2019 the day an application for an approval of development in a site plan control area under subsection 41 (4) of the Planning Act was made, provided the first building permit is issued within two years of the date that application was approved;
 - (ii) if clause (i) does not apply, for applications filed after December 31, 2019, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made, provided the first building permit is issued within two years of the date that amendment comes into force and effect; or
 - (iii) if neither clause (i) nor clause (ii) applies, the day the development charge would be payable in accordance with section 16 of this by-law; and
- (b) for those developments to which section 18 does not apply,
 - (i) for applications filed after December 31, 2019, the day an application for an approval of development in a site plan control area under subsection 41 (4) of the Planning Act was made, provided the date the development charge is payable is within two years of the date that application was approved;
 - (ii) if clause (i) does not apply, for applications filed after December 31, 2019, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made, provided the date the development charge is payable is within two years of the date that amendment comes into force and effect; or
 - (iii) if neither clause (i) nor clause (ii) applies, the day the development charge would be payable in accordance with section 16 of this by-law.

7. Section 24 of By-law 81-2017 is hereby added and the remainder of the sections renumbered, as follows:

Installment Interest

24. Development charges payable by instalment pursuant to section 18 of this by-law shall bear interest in accordance with the Region of Durham Development Charge Interest Rate Policy, as amended from time to time.

9. Schedules B and C of By-law 81-2017 are hereby amended by deleting reference to section 21 of this By-law and replacing it with reference to section 23 of this By-law.

10. This By-law shall come into force on July 1, 2021.

BY-LAW passed this 23rd day of June, 2021.

John Henry, Regional Chair and CEO

R. Walton, Regional Clerk

SCHEDULE "A"

**DESIGNATED REGIONAL SERVICE AND
SERVICE COMPONENTS THEREUNDER**

| <u>CATEGORY OF REGIONAL SERVICE</u> | <u>SERVICE COMPONENTS</u> |
|--|----------------------------------|
|--|----------------------------------|

Transit

- Conventional and specialized buses and non-revenue vehicles expansion and related equipment (e.g. fareboxes, radio's, Presto, etc.)
- New facilities, transit hubs, control centres, lands, buildings and related equipment
- On road amenities (e.g. hard surface stops and shelters)
- System improvements
- Studies

SCHEDULE "B"

**RESIDENTIAL DEVELOPMENT CHARGES EFFECTIVE
JANUARY 1, 2018 — \$ PER DWELLING UNIT BY TYPE**

APARTMENTS

| SERVICE CATEGORY | SINGLE DETACHED & SEMI- DETACHED DWELLINGS | MEDIUM DENSITY MULTIPLES | TWO BEDROOMS & LARGER | ONE BEDROOM & SMALLER |
|-----------------------------|---|---|--|--|
| Regional Transit | \$1,143 | \$919 | \$664 | \$431 |

NOTE: The development charges described above shall be adjusted annually pursuant to section 23 of this By-law.

SCHEDULE "C"**NON-RESIDENTIAL USE DEVELOPMENT CHARGES
EFFECTIVE JANUARY 1, 2018
\$ PER SQUARE FOOT OF GROSS FLOOR AREA**

| SERVICE CATEGORY | Non-Residential Use |
|------------------|---------------------|
| Regional Transit | \$0.54 |

NOTE: The development charges described above shall be adjusted annually pursuant to section 23 of this By-law.