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The Regional Municipality of Durham Report

To: Regional Council
From: Commissioner of Finance
Report: #2023-F-15
Date: June 14, 2023

Subject:

Final Recommendations Regarding Amendments to Regional Transit Development Charges By-law #39-2022

Recommendation:

- A) That Pursuant to Section 10(1) of the Development Charges Act, 1997 (DCA), the Regional Development Charge (DC) Background Study Supporting Proposed Amendments to Regional Transit DC By-law #39-2022 dated March 28, 2023 be adopted;
- B) That effective July 1, 2023, Regional Transit DC By-law #39-2022 be amended to ensure that various policy and implementation matters are consistent with the proposed Region-wide DC by-law (which is being recommended concurrently in Report #2023-F-13), as set out in the amending by-law (Attachment #1);
- C) That the Regional Solicitor be instructed to prepare the requisite DC 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 Regional Treasurer be instructed to prepare the requisite DC pamphlet pursuant to the DCA and related materials; and
- F) That the Regional Clerk be instructed to follow the notification provisions pursuant to the DCA.

Report:**1. Purpose**

- 1.1 The purpose of this report is to provide final recommendations regarding proposed amendments to the Regional Transit Development Charge (DC) By-law. These final recommendations are based on the information contained in the supporting background study dated March 28, 2023.

2. Background

- 2.1 On June 29, 2022, Regional Council approved Regional Transit DC By-law #39-2022 which became effective on July 1, 2022 and applies to both residential and non-residential development. Regional Council will be presented with a new Region-wide DC by-law on June 14, 2023, which contains policy changes that need to be reflected in Regional Transit DC By-law #39-2022 to maintain consistency.
- 2.2 In January 2023, Regional Council authorized the necessary public process to consider amendments to Regional Transit DC By-law #39-2022 to align this by-law with the new Region-wide DC by-law (Report #2023-F-2)
- 2.3 On April 12, 2023, a public meeting was held during a special meeting of Regional Council to discuss the proposed amendments to the Regional Transit DC By-law, along with the supporting background study. The purpose of the public meeting was to fulfill the statutory requirement set out in the DCA and to solicit feedback from the public.
- 2.4 The proposed amendments to the Regional Transit DC by-law, along with the supporting background study, were made available to Regional Council and the public (free of charge from the Regional Clerk) beginning on March 28 as indicated in the public notices placed in the Toronto Star on March 17 and 20 and in the local Metroland newspapers throughout the Region over the period of March 23 to April 6. The study and proposed amending by-law were also posted on the Region's website.

3. Previous Reports and Decisions

- 3.1 Regional Council passed the current Regional Transit DC by-law on June 29, 2022 through Report #2022-F-15.
- 3.2 Regional Council approved Report #2022-F-9 which provided staff authorization to undertake the renewal of the Regional DC By-law.
- 3.3 Regional Council subsequently approved Report #2023-F-2 which provided staff with the authorization to proceed with the public process required to renew the Regional DC By-law and amend the Regional Transit and GO Transit DC By-laws.

3.4 Regional Council received Report #2023-F-10 as a summary of the 2023 Regional DC Background Study and proposed By-law at the public meeting held on April 12, 2023.

4. Highlights of Final Recommendations

4.1 There are no changes from the original recommendations contained in the proposed Regional Transit DC Background Study and amending By-law released on March 28, 2023 and presented during the public meeting on April 12.

4.2 The following is a summary of the recommended amendments to the Regional Transit DC By-law:

- Broadening the definition of a bedroom to meet the area requirements of the Ontario Building Code and to provide more consistency with the local area municipalities;
- Eliminating the by-law expiry clause to comply with Provincial legislation (extending the by-law duration from five to ten years);
- Reducing the timeframe for which redevelopment credits are applied from within ten years after the date of the first demolition permit to within five years to ensure consistency with the local area municipalities; and
- Revising a number of definitions to match the definition revisions being proposed in the new recommended Regional DC By-law.

4.3 The recommended amendments to the Regional Transit DC By-law are being proposed only to align policies and definitions with the new recommended Regional DC by-law. There are no proposed changes to the Regional Transit DC capital program, rates, or development forecast.

4.4 Although the amendments have no impact on the Regional Transit DC rates, the Regional Transit DC rates will increase on July 1, 2023. The increase will occur as a result of the by-law entering year two of the mandatory five-year phase in (increasing from 80 to 85 per cent of the calculated rate) and annual indexing (12.3 per cent in 2023). The new Regional Transit rates, as of July 1, 2023, are provided in the table below.

**Table 1
Comparison of Regional Transit DC Rates**

| | Current Phased-in Rate | New Phased-in Rate, with Indexing (July 1, 2023) | Increase |
|--|---------------------------------------|---|-----------------|
| Residential (per single/semi-detached unit) | \$1,747 | \$2,085 | \$338 |
| Non-residential | \$0.79 | \$0.95 | \$0.16 |

5. Public Input

- 5.1 Opportunity for public comment on the amendments to the Regional Transit DC By-law and supporting Background Study was provided during the public meeting held on April 12, 2023. The public was also able to submit written feedback to the Region by 5:00pm on May 5. The Region did not receive any verbal comment during the public meeting nor any written feedback by the May 5 deadline.

6. Further Considerations by Regional Council Per DCA, 1997 - Formal Consideration of Need for Further Public Meeting

- 6.1 If the proposed by-law is changed as a result of comments received at the public meeting or through written correspondence, 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 notice to be provided at least twenty days prior to such public meeting.
- 6.2 Given that the Region has not made any changes to the proposed amending by-law and the final recommendations are consistent with the amending Regional Transit DC By-law and supporting Background Study released to the public on March 28, a further public meeting will not be required if the recommendations in this report are accepted and no further changes are made.

7. Direction to Regional Staff

- 7.1 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 Regional Transit DC amending By-law. These tasks include the production and distribution of a DC pamphlet, as well as the necessary public notification provisions.

8. Relationship to Strategic Plan

- 8.1 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).

9. Conclusion

- 9.1 It is recommended that the proposed Regional Transit DC amending By-law be approved as provided within the supporting Regional Transit DC Background Study (Attachment #1).

9.2 This report has been prepared with the assistance of staff from the Planning & Economic Development Department, Works Department, and the Office of the Chief Administrative Officer - Legal, who concur with the recommendations.

10. Attachments

Attachment #1: Recommended Regional Transit DC amending By-law

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

By-law Number *-2023**
of The Regional Municipality of Durham

Being a by-law to amend by-law number 39-2022.

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 39-2022;

And Whereas in accordance with the Act, a development charge background study has been completed in support of the proposed amendment to By-law 39-2022;

And Whereas the Council of The Regional Municipality of Durham has given notice and held a public meeting on the 12th day of April 2023 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 39-2022 is amended as follows:

(a) for “bedroom” replace definition with

“means a habitable room, of at least seven square meters (7 m²) where a built-in closet is not provided, or at least six square meters (6 m²) where a built-in closet is provided, including a den, study, loft, or other similar area, but does not include a living room, a dining room, a bathroom or a kitchen;”

(b) add a new definition “detached dwelling” and “detached” as follows:

“means a residential building on one parcel of land comprising at least 1

dwelling unit and not more than 3 dwelling units on that parcel of land, where no portion of the building is attached to any building on another parcel of land;”

(c) for “duplex” replace definition with,

“means a building comprising, by horizontal division, two dwelling units on one parcel of land;”

(d) delete entire “garden suite” definition;

(e) in the “gross floor area” definition, the reference to “section 8” is deleted;

(f) delete entire “housing services use”/ “housing services” definition;

(g) in the “institutional development” definition, replace “section 16(a)” with “section 17”;

(h) for “medium density multiples” replace definition with,

“includes plexes, townhouses and all other residential uses that are not included in the definition of “apartment building”, “apartment”, “mobile homes”, “retirement residence units”, “detached”, “detached dwelling” or “semi-detached dwelling”;

(i) for “non-profit housing development” replace definition with,

“means development of a building or structure intended for use as residential premises and developed by:

(i) a corporation to which the Not-for-Profit Corporations Act, 2010 applies, that is in good standing under that Act and whose primary object is to provide housing;

(ii) 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

(iii) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act;”

(j) in the “rental housing” definition, replace “section 16(a)” with “section 17”;

(k) for “residential use”, replace definition with,

“means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include any building or structure containing dwelling units, and include but not limited to, a detached dwelling, a semi-detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment, an apartment building, a mobile home, a retirement residence and a residential dwelling unit accessory to a non-residential use;”

(l) replace entire “semi-detached duplex” definition with,

““semi-detached building” means a building on two parcels of land, divided vertically (above or below ground) along the common lot line of the two parcels and comprising at least 1 dwelling unit and not more than 3 dwelling units on each parcel;”

(m) for “semi-detached dwelling” replace definition with,

“means the portion of a semi-detached building on one parcel of land comprising at least 1 dwelling unit and not more than 3 dwelling units;”

(n) delete entire “single detached dwelling and “single detached” definition

(o) for “stacked townhouse” replace definition with,

““stacked townhouse” means a building, other than a plex, a detached dwelling or townhouse, containing at least 3 dwelling units; each dwelling unit separated from the other vertically and/or horizontally and each dwelling unit having a separate entrance to grade;”

(p) replace entire “townhouse” definition with,

““townhouse building” means a residential building, on at least 3 parcels of land divided vertically (above or below ground) along the common lot line between each of the parcels and comprising at least 1 dwelling unit and not more than 3 dwelling units on each parcel;” **and**

(q) add new definition, after “townhouse building”,

““townhouse dwelling” means the portion of a townhouse building on one parcel of land comprising at least 1 dwelling unit and not more than 3 dwelling units;”.

2. Section 8 of By-law 39-2022 is deleted and replaced with the following:

“8.(1) 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 |
|---|--|---|
| 8.(1) (c)(i) Existing detached, semi-detached or townhouse dwellings, which contain a single dwelling unit, and where there are no other dwelling units in other buildings or structures on the parcel of land | Two | No exemption applies for the creation of a dwelling unit or units which would result in more than a total of three dwelling units on a parcel of land |
| 8.(1) (c)(ii) Existing detached, semi-detached or townhouse dwellings, each of which contains a single dwelling unit and where there is no more than one dwelling unit in other buildings or structures on the parcel of land | One | No exemption applies for the creation of a dwelling unit or units which would result in more than a total of three dwelling units on a parcel of land |

| | | |
|--|--|---|
| <p>8.(1) (c)(iii) Existing detached, semi-detached or townhouse dwellings, each of which contains no more than 2 dwelling units and where there are no other dwelling units in other buildings or structures on the parcel of land</p> | <p>One</p> | <p>This exemption applies only for the creation of a dwelling unit in an ancillary building or structure and no exemption applies for the creation of a dwelling unit or units which would result in more than a total of three dwelling units on a parcel of land</p> |
| <p>8.(1) (c)(iv) Existing rental residential buildings, each of which contains four or more dwelling units.</p> | <p>Greater of one and 1% of the existing units in the building</p> | <p>No exemption applies where it would result in a total number of dwelling units where units created under the exemption in this By-law would exceed the greater of one unit or 1% of the units existing in the building prior to the first exemption for an additional dwelling unit.</p> |
| <p>8.(1) (c)(v) An existing residential building not in another class of residential building described in this table.</p> | <p>One</p> | <p>No exemption applies where a dwelling unit has already been created with an exemption this By-law.</p> |

(d) the creation of additional dwelling units in accordance with the following table:

| <p>Description of Class of Proposed New Residential Buildings & Number of Units Proposed</p> | <p>Restrictions</p> |
|--|---|
| <p>8.(1) (d)(i) the second or third dwelling units in a proposed detached, semi-detached or townhouse dwelling where there are no other dwelling units, existing or proposed, in other buildings or structures on the parcel of land</p> | <p>No exemption applies for the creation of first dwelling unit or where a dwelling unit or units which would result in more than a total of three dwelling units on a parcel of land</p> |
| <p>2.13 (d)(iii) one dwelling unit in a proposed new residential building that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or townhouse dwelling which</p> | <p>No exemption applies for the creation of a dwelling unit which would result in more than a total of three dwelling units on a parcel of land.</p> |

| | |
|---|--|
| would not contain more than a two dwelling units. | |
|---|--|

- (e) non-profit housing development; and
- (f) residential units that are affordable housing units required to be included in a development or redevelopment (“inclusionary zoning units”) pursuant to a by-law passed under section 34 of the Planning Act to give effect to the policies described in subsection 16 (4) of that Act.”

3. In Sections 13(1) and 13(2) of By-law 39-2022 the reference to “ten years” is replaced with “five years”.

4. Section 13(3) of By-law 39-2022 is deleted.

5. Section 13(4) is renumbered section 13(3).

6. Following section 13 add new section, as follows:

“Reduction for Rental Housing Development

14. The development charges set out on Schedule B shall be:

- (a) In rental housing development, for dwelling units with 3 or more bedrooms: 75% of the Total of All Charges shown on Schedule B;
- (b) In rental housing development, for dwelling units with 2 bedrooms: 80% of the Total of All Charges shown on Schedule B; and
- (c) In rental housing development, for all other dwelling units: 85% of the Total of All Charges shown on Schedule B.”

7. Section 14 of By-law 39-2022 is renumbered section 15 and the references to “section 17” and “section 19” are replaced with “section 18 of this by-law” and “section 20” respectively.

8. Section 15 of By-law 39-2022 is renumbered section 16 and the reference to “section 14” is replaced with “section 15 of this by-law”.

9. Section 16 of By-law 39-2022 is renumbered section 17 and replaced with,

“17. Notwithstanding subsection 15 of this by-law, where development charges become payable after January 1, 2020 for development of 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.”

10. **Section 17 of By-law 39-2022 is renumbered section 18 and the references to “section 19”, “section 22”, “section 16” and “section 14”, are replaced with “section 20”, “section 23”, “section 17” and “section 15” respectively.**
11. **Section 18 of By-law 39-2022 is renumbered section 19 .**
12. **Section 19 of By-law 39-2022 is renumbered section 20.**
13. **Section 20 of By-law 39-2022 is renumbered section 21.**
14. **Section 21 of By-law 39-2022 is renumbered section 22.**
15. **Section 22 of By-law 39-2022 is renumbered section 23 and replaced with,**

“Interest

“23. Development charges payable per this by-law shall bear interest in accordance with the Region of Durham Development Charge Interest Rate Policy, as amended from time to time.”
16. **Section 23 of By-law 39-2022 is deleted.**
17. **In Schedule B to By-law 39-2022 the reference to “single” is deleted and the reference to “section 19” in the Note is replaced with “section 20”.**
18. **In Schedule C to By-law 39-2022 the reference to “section 19” in the Note is replaced with “section 20”.**

This By-law Read and Passed on the ----th day of -----, 2023.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk