



Committee Report

To:	Warden Hicks and Members of Grey County Council
Committee Date:	December 10, 2020
Subject / Report No:	Addendum to Report FR-CW-21-20
Title:	Development Charges By-law Updates
Prepared by:	Kevin Wepler, Randy Scherzer and Michael Letourneau
Reviewed by:	Kim Wingrove
Lower Tier(s) Affected:	All Municipalities
Status:	Recommendation adopted by Committee as presented per Resolution CW05-21; Endorsed by County Council January 14, 2021 per CC08-21;

Recommendation

1. **That Report Addendum to FR-CW-21-20 be received, and that the proposed changes to the County's Development Charges By-laws be supported as it relates to exempting purpose-built rental housing apartments, non-profit housing, and detached additional dwelling units, along with some other minor changes; and**
2. **That by-laws to accordingly amend the Development Charge By-laws (#4949-16 and #4950-16) and an accompanying policy to implement the changes be brought forward for Council's consideration; and**
3. **That the further revisions that have been made to the proposed Development Charges By-laws are minor in nature and therefore an additional public meeting is not required as per subsection 12(3) of the Development Charges Act.**

Executive Summary

In September of this year, Council supported in principle proposed changes to the County's Development Charges (DC) By-laws that would help to encourage more rental housing, non-profit housing, and detached dwelling units by exempting these developments from a County DC. Other proposed changes include alignment with some of the recent changes to the Development Charges Act, supporting incentives related to Community Improvement Plan Program, and considering Development Charge credits for qualifying redevelopment projects. A public meeting was held to discuss the proposed changes and to receive any comments and no comments were received. Some additional minor changes have been made to proposed amendments as outlined in the report. It is recommended that the amendments to the DC By-laws be finalized and brought forward to Council for consideration.

Background and Discussion

On September 10th, 2020, proposed amendments to the County Development Charges (DC) By-laws were presented to Committee of the Whole which were supported in principle. The following is a list of the proposed amendments to the DC By-laws:

1. Exempting all new purpose-built rental units (e.g. a building or structure with four or more dwelling units all of which are intended for use as rented residential premises).
2. Exempting all non-profit housing developments as defined as well as development projects supported through funding provided by the County Housing Department or the National Housing Strategy.
3. Exempt detached additional dwelling units (as defined and that aligns with the recent changes made to the Development Charges Act).
4. Development Charge Deferral Policy – establishing criteria for deferring development charges until time of occupancy (e.g. housing units that meet the Accessibility for Ontarian Disabilities Act standards, other rental development that would not be eligible for an exemption, any new condominium apartment developments or life lease/land lease developments).
5. Redevelopment credits – applying a credit for the conversion of non-residential space to residential units.
6. Exempting DC's for approved community improvement plan projects.
7. Amendments based on DC Act Changes.

Detail regarding the proposed amendments can be found in [Report FR-CW-21-20](#).

As required by the Development Charges Act, a public meeting was held on October 22, 2020. The notice for the public meeting was posted in the Owen Sound Sun Times and posted on the County website along with the background staff report and the proposed by-law amendments. The notice was also circulated in accordance with the Development Charges Act. No comments have been received to date regarding the proposed amendments to the County's DC By-laws.

Since that meeting was held, some minor revisions have been made to the proposed DC By-law amendments in order to:

- align with some of the changes made to the Development Charges Act that were proclaimed by the Province on September 18, 2020,
- clarify definitions and align them with the existing wording of the by-laws,
- deal with the administrative matters on how these exemptions will be applied and implemented.

Staff are of the view that the revisions are minor in nature and in keeping with the spirit and intent of the changes presented at the public meeting; and that an additional public meeting would not be required.

The following is a list of the further revisions that are being proposed to the previously drafted by-law amendments:

- Revising the definition for life-lease development to reflect existing definitions under regulations under the Land Transfer Tax Act as well as adding a definition of land lease development as per the Residential Tenancies Act.
 - “land lease development” means a land lease community as defined in the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17;
 - “life lease development” means a life lease development as defined in Ontario Regulation 88/04, as amended, made under the *Land Transfer Tax Act*, R.S.O. 1990, c. L.6, as amended, but does not include any such life lease development owned by an entity identified in clause 1 of section 2 of that Regulation

Land lease or life lease developments would qualify for a deferral of development charges until time of occupancy, but they would not qualify for an exemption to the County Development Charges. The definition for life-lease developments carries over an exemption provided in the Land Transfer Tax Act for life lease developments owned by a non-profit organization or registered charity; such developments would be eligible for a DC exemption under the definition above.

- Clarified ‘non-profit housing development’ which means any development pursued by a not-for-profit developer and then added a definition for ‘non-profit developer’ to ensure it captures the non-profit housing providers in our region as previously supported in principle by County Council. Also clarified that non-profit housing developments would be exempt out-right with no requirement for an agreement as there are existing safeguards in place that would ensure that these units would remain as non-profit housing units (i.e. separate agreements or other requirements through legislation).
- Created a new class of conditional exemption to be applied to purpose-built rental housing and CIP-incentivized housing (both described below). For developments in these classes, payment of their DCs would be deferred from the start of construction through to the end of a period of 20 years after occupancy. If a development’s units do not remain as rental units during that period of time, the County would be able to require payment of the DCs. Once the 20-year period is complete, the full DC exemption would then be applied. This exemption would be implemented through a mandatory ‘Deferral and Conditional Exemption Agreement’ to be entered into with the developer.
- Clarified the qualifications of purpose-built rental housing and the requirement for entering into a ‘Deferral and Conditional Exemption Agreement’ which are intended to ensure that the units remain as rental units for a period of at least 20 years. As per the previous definition, the exemption of purpose-built rental housing does not include land lease or life lease developments. The definition of purpose-built rental housing refers to the definition of ‘rental housing development’ in the DC Act and the regulations under the Act which means a ‘development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises’. The definition has also been clarified to indicate that purpose-built rentals do not include commercial resort units, or units associated with a hotel, motel, inn, lodge or hostel, and would ensure that

these units are not being used for short-term accommodation (i.e. occupied by any tenant for less than 30 days).

- Clarified the exemption of County Development Charges related to developments that are approved to receive incentives through an approved Community Improvement Plan. Under the proposed by-laws, these are termed as 'CIP-incentivized developments' and must meet at least one of the following four criteria:
 - The development is approved to receive an incentive under a local municipal CIP and under which the local municipality receives a contribution from the County made pursuant to the Planning Act
 - The development has entered into an agreement with both the County and the local municipality for a land incentive.
 - The development has all or a portion of its taxes for County purposes cancelled or to be cancelled pursuant to the terms of a by-law passed by a local municipality under Section 365.1(21) of the Municipal Act (this would include such CIP tax incentives as Tax Increment Equivalent Grants, Brownfield Tax Assistance Grants, and Vacant Lands Tax Assistance Grants).
 - The development has all or a portion of its taxes for County purposes cancelled or to be cancelled pursuant to the terms of a by-law enacted by the County under section 365.2(7) of the Municipal Act. This relates to Heritage Property Tax Relief.
- CIP-incentivized developments, like purpose-built rental developments, also require a 20-year 'Deferral and Conditional Exemption Agreement'.
- For exemptions regarding additional dwelling units, it is recommended that these align with the exemptions recently proclaimed under the DC Act by just referring to the DC Act. This would still exempt additional dwelling units proposed either within, attached or detached to an existing residential unit as well as additional dwelling units proposed with a new residential unit subject to the restrictions outlined under the DC Act. Below is a summary of the exemptions for additional dwelling units under the DC Act as per the updates to O. Reg 82/98 of the Development Charges Act:

Creation of Additional Dwelling Units - Existing Residential Buildings

Item	Name of Class of Existing Residential Building	Description of Class of Existing Residential Buildings	Maximum Number of Additional Dwelling Units**	Restrictions
1.	Existing single detached dwellings	Existing residential buildings, each of which contains a single dwelling unit,	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

		that are not attached to other buildings.		unit already in the building.
2.	Existing semi-detached dwellings or row-dwellings	Existing 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.
3.	Existing rental residential buildings	Existing residential rental buildings, each of which contains four or more dwelling units.	Greater of one and 1% of the existing units in the building	None
4.	Other existing residential buildings	An existing residential building not in another class of residential building described in this table.	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.

**Note: the maximum number of additional dwelling units and any restrictions identified in the table above apply whether an additional dwelling unit is in the residential building or a structure ancillary to it.

Creation of Additional Dwelling Units in New Residential Buildings

Item	Name of Class of Proposed New Residential Buildings	Description of Class of Proposed New Residential Buildings	Restrictions**
1.	Proposed new detached dwellings	Proposed new residential 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.	The proposed new detached dwelling must only contain two dwelling units. 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.
2.	Proposed new semi-detached dwellings or row dwellings	Proposed new 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>
3.	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling	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>

****Note:** Further to the above, subsection 2(3.1) of the DC Act notes that ‘the creation of a second dwelling unit in prescribed classes of proposed new residential buildings, including structures ancillary to dwellings, is, subject to the prescribed restrictions, exempt from development charges.’

Deferral and Condition Exemption Agreements

Specific requirements have been set out for what must be included in a ‘Deferral and Conditional Exemption Agreement’. The agreement requirements would apply to purpose-built rentals and CIP-incentivized developments. If the development satisfies the conditions of the agreement throughout the term of the agreement (e.g. 20 years) then the development would be

exempt from the County Development Charges. Should a development not satisfy all the conditions of the agreement during the term of the agreement, the County Development Charges that would have been normally payable at the time of building permit would need to be paid by the landowner. The following is a summary of the minimum conditions to be applied in a 'Deferral and Conditional Exemption Agreement':

- Payment of any County DC's would be deferred during the period of the Agreement (e.g. 20 years). If the agreement is breached the development charges would become due immediately with any applicable interest.
- No Change of Use. The development shall be not be used for any other purpose other than what was approved in the Agreement. For example, for a purpose-built rental development, the residential units would need to remain as rental units for the term of the agreement (e.g. 20 years). If a landowner took steps to convert the purpose-built rental units to condominium units, this would be a breach of the agreement and therefore the development charges would become due immediately with any applicable interest.
- No Change of Ownership without Notification. The owner of the land shall not sell or otherwise transfer its ownership interest to any other person unless they take such steps as the County may require binding the new owner to the provisions of the agreement.
- Registration on Title. Notice of the agreement will need to be registered on title and shall stand in priority to any encumbrance registered on that title.
- Other proposed revisions have been made to the draft by-law amendments to add further clarity to the proposed changes; however, the original intent has not changed.
- The DC Deferral Policy will also be revised to include the administrative requirements associated with the 'Deferral and Conditional Exemption Agreements' and will identify, at a minimum, the requirements identified previously in this report. These matters will be included in the policy prior to bringing it forward for Council's consideration.

Legal and Legislated Requirements

The Development Charges Act (section 5) allows a Development Charges By-law enacted by the County to set out types of developments which are exempt from the payment of development charges. The Act (section 27) also permits the County to enter into deferral agreements allowing for the payment of development charges later than would normally be required.

The Act (sections 12 and 19) requires that proposed amendments to a Development Charges by-law be considered at a public meeting prior to their enactment by Council. If the proposed amendments are revised, Council must determine whether another public meeting is required (see section 12(3)).

Financial and Resource Implications

Should Council support the proposed amendments to the County's DC By-laws, there will be a potential loss in anticipated DC revenue going forward for the period of the current DC background study. Staff have estimated that this could be approximately \$250,000 to \$300,000 on an average annual basis as outlined in Report FR-CW-21-20, however noting that some of the proposed amendments are difficult to estimate the potential revenue loss. There has been an increase recently in proposed rental housing developments through either pre-submission consultations or recent applications and therefore the potential loss in DC revenue could be higher than the estimated amounts. These amendments however align with the strategic objectives to encourage more affordable housing options throughout the County, including encouraging more rental housing and non-profit housing. Staff will continue to monitor this and should the vacancy rate return to healthy levels, Council could then consider reinstating DC's for purpose built rental housing.

Relevant Consultation

- Internal (Finance, Planning, Housing, Legal Services, Clerks)
- External (Hemson (County's current DC Consultant), local municipalities, prescribed agencies and public as per the Development Charges Act).

Appendices and Attachments

[2016 Consolidated Development Charges Background Study](#)

[By-Law 4949-16 Establish Development Charges County-Wide Roads and Related](#)

[By-Law 4950-16 Establish Development Charges General Services](#)

[Draft By-law Edits to 4949-16](#) - (edits to 4950-16 will be identical)

[Draft Development Charges Deferral Policy](#) - (to be revised to include additional administrative requirements for 'Deferral and Condition Exemption Agreements')