

Proposed More Homes Built Faster Act, 2022 - Bill 23		
Schedule 3 – Development Charges Act		
Proposed Change	Explanation of Change	Comments
Secondary / Ancillary Dwellings (Subsection 2(1))	<p>The statutory exemption for secondary dwelling units is being moved from Ontario Regulation 82/98 into the <i>Development Charges Act</i>.</p> <p>The statutory exemption is being expanded so that every single-family dwelling, semi-detached dwelling and townhouse dwelling can each have up to three dwelling units; one primary and two secondary without paying development charges. The secondary dwelling may be either within the primary building or one may be within and the second may be within an ancillary structure. Previously, only single detached dwellings were required to exempt up to two secondary dwellings.</p> <p>The requirement to exempt the greater of one unit or 1% of the existing units for apartment buildings remains the same.</p> <p>The gross floor area restrictions in order to be eligible for the exemption have been removed.</p>	<p>The City's DC by-law 19-142 already provides an exemption for up to two secondary dwellings within, or ancillary to, an existing single-family dwelling, semi-detached dwelling and townhouse dwelling.</p> <p>The City would be required to increase the exemption for new developments to permit two (versus one) secondary dwelling units for semi-detached and townhouse dwellings. The City already provides that new single-detached dwellings can add up to two secondary dwellings.</p> <p>The size requirement to be eligible for the exemption has been removed and therefore units that would not have previously been eligible for the exemption due to size will be required to be exempted.</p>

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Removal of Housing Services as an eligible category (Subsection 2(2) and (3))	Housing is to be removed as an eligible DC service. By-laws which include a charge for Housing Services can no longer collect for this service once Bill 23 receives Royal Assent.	<p>The City will no longer be able to collect DCs for CityHousing Hamilton (CHH) projects and therefore will not be able to provide DC funding towards CHH projects in the future.</p> <p>The updated 2019 DC study had the City collecting \$18.8 M in 2019\$ over a 10-year period. (\$25.1 M indexed to 2022\$)</p> <p>The City will be required to update the DC rates effective the day that Bill 23 receives Royal Assent which may require refunds to be issued for permits which have paid DCs but had not been issued by this date.</p>
Mandatory Exemptions for Affordable and Attainable Units (Section 3)	<p>New definitions will be added to the Act for "affordable residential unit" and "attainable housing unit". Municipalities will be required to exempt these types of units.</p> <p>The Minister will publish a Bulletin to guide municipalities with respect to the dollar threshold for a unit to be considered affordable.</p> <ul style="list-style-type: none"> Affordable Rental Unit: Where rent is no more than 80% of the average market rent (in the year occupied by a tenant) as defined by a new Bulletin published by the Ministry of Municipal Affairs and Housing Affordable Owned Unit: Where the [purchase] price of the unit is no more than 80% of the average purchase price (in the year that the unit is sold) as defined by a new Bulletin published by the Ministry of Municipal Affairs and Housing. 	<p>The City would be required to exempt affordable and attainable units as defined by the Province.</p> <p>The City would need to determine how to administer such a program and assess the resources required to administer the program.</p> <p>Municipalities would need access to information that is not readily available to municipalities. i.e. sales dates and prices.</p> <p>It is unclear how localized the Ministers Bulletins will be and therefore, unclear whether there is a risk that market rates in one or more localized areas of the City will be considered affordable by the definition in the Bulletin.</p>

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	<p>An attainable unit has not been defined other than by reference to a prescribed development or class of developments. Nothing has been prescribed.</p> <p>In order to be eligible for the exemption the transaction must take place at arm's length.</p> <p>Municipalities may require that affordable units and attainable units enter into an agreement to require that affordability be maintained for 25 years. The Minister may establish a standard form for this agreement. The agreement may be registered on title.</p>	<p>It is unclear what recourse a municipality could require if affordability were not maintained. This is specifically a risk for affordable ownership units as any sale at market rates after the original purchase, within 25 years, could mean that the unit is no longer considered affordable. This could potentially mean that the original purchaser be required to pay DCs when they sell the property vs the developer paying DCs at construction.</p>
Mandatory Exemption for Non-profit Housing (Section 4 part 1)	<p>The definition of a non-profit housing development is being moved from Ontario Regulation 82/98 into the <i>Development Charges Act, 1997</i>.</p> <p>Municipalities will be required to exempt non-profit housing developments.</p> <p>Previously, non-profit housing developments were eligible to pay DCs in 21 annual instalments commencing at occupancy. Any instalments for non-profit housing development that become due after Bill 23 receives Royal Assent will also be exempted.</p>	<p>The Province has not provided any ability for a municipality to require an agreement with a non-profit housing developer. The Province has provided the ability to require an agreement for affordable and attainable units.</p> <p>The City would not be able to collect DCs for any active instalment plans for non-profit housing. As of time of writing there are no active instalment plans for non-profit housing; however, there are three developments which have applied for building permit being monitored.</p>
Mandatory Exemption for Inclusionary Zoning Units (Section 4 part 2)	Municipalities would be required to exempt housing units required under inclusionary zoning by-laws.	No immediate impact to City of Hamilton as the City does not currently have an inclusionary zoning by-law. An inclusionary zoning by-law is planned to be presented for consideration to Council in Q1-Q2 2023.

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Change from 10-year service standard to 15-year service standard (Subsection 5(1))	Currently the increase in need for service is limited by the average historical level of service calculated over the 10 years preceding the preparation of the DC background study. This average will be extended to the historical 15-year period.	<p>This change could result in a lower calculated service standard cap which will limit the amount that can be collected through DCs towards growth infrastructure.</p> <p>Financial impact has yet to be assessed. The impact of this change would not be immediate, rather it would impact the DC calculation within the City's next DC by-law.</p>
Ability of Province to prescribe services where land is not an eligible cost (Subsection 5(3))	The Province has added the ability to prescribe services that municipalities will not be able to include land as an eligible capital cost for DCs.	<p>No services have been prescribed. The impact will depend on what is prescribed.</p> <p>Currently, the only cost of land ineligible for inclusion in DC collections is parkland. The City's Parkland Dedication by-law collects funds to pay for land and therefore this restriction is to prevent the same costs being collected through two tools.</p>
Removal of Studies as an eligible cost (Subsection 5(4))	The sections of the DC Act that permit municipalities to include the cost of studies within the DC calculation are proposed to be removed.	<p>The City would no longer be able to use DC funding towards studies, including growth studies, secondary plans, masterplans and the DC Background Study.</p> <p>The updated 2019 DC study had the City collecting \$16.1 M for general growth studies in 2019\$ over a 10-year period. (\$21.5 M indexed to 2022\$)</p>

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Mandatory phase in (Subsections 5(6), (7) and (8))	<p>For all D.C. by-laws passed after June 1, 2022, the charge must be phased-in relative to the maximum charge that could be imposed under the by-law. The proposed phase-in for the first five years that the by-law is in force, is as follows:</p> <ul style="list-style-type: none"> • Year 1 – 80% of the maximum charge; • Year 2 – 85% of the maximum charge; • Year 3 – 90% of the maximum charge; • Year 4 – 95% of the maximum charge; and • Year 5 to expiry – 100% of the maximum charge <p>For by-laws passed June 1, 2022 through the date of Royal Assent, the phase-in will be required for all payments as of the date of Royal Assent. The City is not affected by this.</p>	<p>The DC methodology considers the total costs required to support the anticipated growth in the municipality and then allocates those costs over the total development. A required discount to the calculated DC means that the City cannot collect sufficient funding to pay for the required infrastructure through DCs.</p> <p>Financial Impact: High level estimates project that lost collections would amount to \$50 M - \$65 M at current DC rates related to the proposed phase-in.</p>
DC By-law life from 5 years to 10 years (Section 6)	DC by-laws would expire 10 years after the day the by-law comes into force. This extends the maximum DC by-law life from five years currently. DC by-laws that expire prior Bill 23 receiving Royal Assent would not be allowed to extend the life of the expired by-law.	<p>Considered in isolation,</p> <ol style="list-style-type: none"> 1. This change provides municipalities greater flexibility with respect to the timing of an updated DC by-law which can be challenging when growth plans and masterplans need to be coordinated. 2. This change means that the timeliness of updating the DC calculation with the experienced and forecasted growth is further out of sync, a five-year by-law required that the DC calculation remained relatively current. <p>Considered with the proposed mandatory phase-in of DC rates, this extension to the maximum by-law period ensures that municipalities can collect the calculated charge for more than one year.</p>

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		The City may have an option to extend the life of DC by-law 19-142; depending on the date the legislation is enacted. This option, alongside the updates to masterplans necessitated out of the Province's direction to expand the urban boundary through the final approval of OPA 167 and the draft DC calculations from those masterplans, will need to be considered to determine whether it makes sense to postpone the enactment of the next DC by-law beyond the current required date of June 12, 2024.
Housekeeping given non-profit housing is now proposed to be exempt (Section 7)	Housekeeping changes to the Act to accommodate non-profit housing being exempt vs eligible for instalments	N/A - housekeeping
Mandatory reduction for rental apartments (Section 8)	<p>The DCs payable for rental housing developments will be reduced based on the number of bedrooms in each unit as follows:</p> <ul style="list-style-type: none"> • Three or more bedrooms – 25% reduction; • Two bedrooms – 20% reduction; and • All other bedroom quantities – 15% reduction. 	<p>The DC methodology considers the total costs required to support the anticipated growth in the municipality and then allocates those costs over the total development. A required discount to the calculated DC means that the City cannot collect sufficient funding to pay for the required infrastructure through DCs.</p> <p>The financial impact will vary depending on how many rental developments proceed each year.</p>

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Prescribed interest rate for sections 26.1 and 26.2 of the DC Act (Section 9)	<p>No maximum interest rate was previously prescribed for:</p> <ol style="list-style-type: none"> 1. The interest that applies to DCs locked in at site plan application date (or zoning by-law amendment application date as applicable), or 2. The interest that applies to legislated instalment payments from building permit issuance to the date of instalment payment. <p>Under the proposed changes, the maximum interest rate would be set at the average prime rate of the five major Canadian Banks for commercial loans plus 1%, updated quarterly.</p> <p>This maximum interest rate provisions would apply to all DCs payable as of the date that Bill 23 receives Royal Assent. For instalments, the interest rate change takes effect as of June 1, 2022.</p>	<p>The City's interest rate policy, as adopted through FCS20028/PED20105 is as follows:</p> <ol style="list-style-type: none"> 1. The interest that applies to DCs locked in as of site plan application date (or zoning by-law amendment application date as applicable) is fixed at the Bank of Canada Prime, compounded semi-annually 2. The interest that applies to legislated instalment payments from the date of building permit issuance to the date of instalment payment is fixed at the Bank of Canada Prime plus 2%, compounded semi annually <p>For comparison purposes staff compared the average prime rate for the five major banks plus 1% to the City's existing policy as of November 11, 2022.</p> <ul style="list-style-type: none"> • average prime rate for the five major banks is 5.95% • Bank of Canada Prime is 3.75% <table border="1"> <tr> <th></th><th>Proposed Prescribed Rate</th><th>Current City Policy</th></tr> <tr> <td>Locked in DC Rates</td><td>6.95% (5.95% + 1%)</td><td>3.75%</td></tr> <tr> <td>Instalments</td><td>6.95% (5.95% + 1%)</td><td>5.75% (3.75% + 2%)</td></tr> </table> <p>During period of increasing interest rates the prescribed maximum is generally not expected to exceed the City's current Policy rate. However, in periods of declining interest rates the opposite could occur.</p>		Proposed Prescribed Rate	Current City Policy	Locked in DC Rates	6.95% (5.95% + 1%)	3.75%	Instalments	6.95% (5.95% + 1%)	5.75% (3.75% + 2%)
	Proposed Prescribed Rate	Current City Policy									
Locked in DC Rates	6.95% (5.95% + 1%)	3.75%									
Instalments	6.95% (5.95% + 1%)	5.75% (3.75% + 2%)									

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Requirement to spend or allocate 60% of some DC reserve balances (Section 10)	Similar to the requirements for Community Benefit Charges, annually beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the Regulation.	For the Services currently prescribed, Water, Wastewater and Services related to a highway, the City's combined approved but unspent direct capital funding and DC Debt exceed current reserve balances for those services so there is no immediate impact. While there no direct financial impact, this requirement appears to be excessive administration for municipalities as the DC study effectively performs this function.
Front Ending (Section 11)	Housekeeping to consider exemptions for affordable residential units, attainable residential units, non-profit housing units and inclusionary zoning residential units within front ending agreements.	N/A – the City does not have any front ending agreements (existing or planned)
Housekeeping given other changes (Section 12 and 13)	Housekeeping changes to the Act such as allowing the additional prescriptions through Regulation that have been proposed through Bill 23.	N/A – housekeeping

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Effective Date (Section 14)	<p>The majority of Bill 23 is set to come into effect the day that the Bill received Royal Assent.</p> <p>The following sections are scheduled to come into effect on a date to be proclaimed:</p> <p>Section 3: Mandatory Exemptions for Affordable and Attainable Units</p> <p>Subsection 11(2): Front Ending</p> <p>Subsections 12(2) and (6): Related to prescribing Attainable Residential Units</p>	<p>There are many changes set to come into effect on the date of Royal Assent which require significant administration and coordination between City sections. Without a transition period or advance notice of the effective date staff will not have an opportunity to adjust processes or systems.</p> <p>Specifically, the following changes could be more effectively managed with an effective date known in advance:</p> <ol style="list-style-type: none"> 1. The removal of Housing as an eligible service (Section 2(2) and (3)) as Bill 23 effectively changes municipal by-law on the date of Royal Assent 2. The 15%-25% reduction for rental properties based on the number of bedrooms (Section 8) which is effective for permits issued on or after the date of Royal Assent 3. The maximum prescribed interest rate (Section 9) for locked in DC rates and legislated DC instalments which is effective based on the date payable