



# The Corporation of the Town of Milton

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Report To: Council

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From: Glen Cowan, Chief Financial Officer/Treasurer

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Date: February 10, 2020

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Report No: CORS-002-20

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Subject: Legislative Update Bill 108: More Homes, More Choice Act, 2019

**Recommendation: THAT Council approve the use of the Town's financial institution prime lending rate as the interest rate under sections 26.1 (7) and 26.2 (3) of the Development Charges Act, 1997.**

## EXECUTIVE SUMMARY

- On December 19, 2019, the Town received formal correspondence from the Ministry of Municipal Affairs and Housing that portions of Bill 108: *More Homes, More Choice Act, 2019*, would be proclaimed as of January 1, 2020.
- The proclamations affect the timing of the calculation of the development charge, the timing of the payment of development charges for certain types of developments, and the authority to charge interest on the development charge for the rate freeze and installment payments.
- Staff are seeking authority to use the Town's financial institution prime lending rate as the interest rate to apply under sections 26.1 (7) and 26.2 (3) of the *Development Charges Act, 1997* to the development charge rate freeze and installment payments.

## REPORT

### Background

As previously reported to Council through reports CORS-035-19 and CORS-047-19, the Ministry of Municipal Affairs and Housing, through Bill 108: *More Homes, More Choice Act, 2019*, introduced changes to both the *Development Charges Act, 1997* (DCA) and the *Planning Act*, among others, that have significant implications for municipalities. The detailed regulations supporting the legislative changes are being gradually released by the Province and the Town has provided comments on various Environmental Registry of Ontario postings related to Bill 108. On December 10, 2019, the Province also approved Bill 138: *Plan to Build Ontario Together Act, 2019* which makes further changes to the DCA and Planning Act. Through a letter December 19, 2019 (attached as Schedule I),



the Town received confirmation from the Ministry that portions of Bill 108 and Bill 138 that amend the DCA would be proclaimed as of January 1, 2020. This report has been prepared to summarize the proclaimed changes and obtain Council approval of the interest rates to be applied in accordance with the DCA.

## Discussion

The changes to the DCA that were enacted on January 1, 2020 are summarized below.

### Timing of Collection of the Development Charge

The amended DCA provides for the deferral of development charge (DCs) payment until occupancy, instead of upon building permit issuance, for the following types of development:

1. Rental housing development that is not non-profit housing;
2. Institutional development; and
3. Non-profit housing development.

Section 11.1 of O. Reg. 454/19 to amend O. Reg. 82/98, attached as Schedule II, provides further definitions of these types of developments. For rental housing development that is not non-profit housing and institutional developments, the DCs will be payable in six (6) equal annual installments, while DCs for non-profit housing development will be payable in 21 equal annual installments, each commencing on the earlier of the date an occupancy permit is granted or actual occupancy of the building. In the even the DCs are not paid when due, the legislation permits any unpaid DCs, and accrued interest, to be added to the tax roll and collected in the same manner as property taxes.

The legislation provides authority for the municipality to charge interest from the date the DCs would otherwise have been payable, either at building permit issuance or earlier if specified in the Town's DC Bylaw or other agreement, until the date the installment is paid. Although permitted in the DCA, the legislation does not currently provide for a prescribed maximum interest rate and the Province has not, by the adoption of amendments to O.Reg. 82/98, prescribed any maximum rate at this time.

### Timing of the Development Charge Calculation

Under the new legislation, the amount of the DC is calculated using the By-law in effect at the time of the latter of a zoning amendment or site plan application is made and the development charge rate is frozen for two (2) years following application approval, not the date the application is made, where applicable. If a landowner allows the two (2) years to elapse between application approval date and the date the DC becomes payable, where applicable, or building permit issuance the freeze in rates will elapse for the proposed development. In such case,, the DC is to be calculated at such time as the DC becomes payable, where applicable, or building permit issuance.

Similar to the installment payments above, the legislation provides authority for the municipality to charge interest from the date of the zoning amendment or site plan



application to the date the DCs are payable and although, permitted in the DCA, the legislation does not currently prescribe a maximum interest rate.

#### Interest on Development Charges

As noted above, the legislation provides authority for municipalities to charge interest on the DCs payable for both the installment payments provided to certain types of developments and on the DC rate freeze. Staff are recommending the Town apply the prime lending rate of the Town's financial institution for any applications received from January 1, 2020. Once Council has approved the applicable rate, staff will reflect it in the related procedures that are required to administer the program.

There remain numerous legislative changes that are still pending proclamation by the Lieutenant Governor that will have significant implications for municipalities including:

#### Mandatory Exemptions for Additional Dwelling Units

O. Reg. 454/19 amends the legislation to allow for DC exemptions for the creation of additional dwelling units in new residential buildings and more than one unit in existing rental residential buildings. This will likely result in an increase in DC Exemptions which are required to be funded by alternative sources, which for the Town would generally be the property tax base.

#### Changes to Development Charge Eligible Services

Bill 108 will remove all discounted (soft) services such as recreation, parks and libraries from the DCA and replace with an amended Section 37, Community Benefits Charge (CBC), in the Planning Act. Bill 138 further amends the Planning Act to provide a process for appeal of a CBC by-law through the Local Planning Appeal Tribunal (LPAT). The Minister has previously proposed a transition date of January 1, 2021. Although the Minister has expressed that the CBC is intended to be revenue neutral for municipalities, the formula has not yet been released and therefore, any financial implications for Milton are currently unknown.

Staff will continue to monitor the legislation and will report back to Council with necessary updates as more information and timing of implementation is available.

### **Financial Impact**

Bill 108 is expected to result in financial implications for the Town, however the full extent of the impacts cannot be quantified with the information currently available. As previously reported, at a minimum, the Town will face increased costs to administer the new legislation, greater financial risk associated with an increased use of debenture financing and volatility in revenue streams associated with changes in real estate values used to calculate CBCs as well as increased costs for development charge exemptions.



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234-2019-68

December 19, 2019

Dear Head of Council,

As you know, I released our government's action plan to tackle Ontario's housing crisis earlier this year. This plan, which is supported by the *More Homes, More Choice Act, 2019*, is intended to put affordable home ownership in reach of more Ontario families and to provide more people with the opportunity to live closer to where they work.

Since its release, our government has been consulting with municipalities and the public on several aspects of the legislation, including a regulatory approach for changes to the *Development Charges Act*. I value the input of our municipal partners.

I am writing today to inform you of changes to the *Development Charges Act*, made by the *More Homes, More Choice Act*, and relevant amendments to Ontario Regulation 82/98 (General) under the *Development Charges Act*, which come into effect on January 1, 2020.

As of January 1, 2020, builders of rental housing, non-profit housing, and institutional developments will be able to defer paying development charges until occupancy. Furthermore, payments will be made in annual installments in accordance with the *Development Charges Act*.

Development charge rates, as of January 1, 2020, will be set for a development when a site plan or zoning amendment application is submitted to a municipality. Changes to Ontario Regulation 82/98 mean that the rate would continue to be frozen for two years after planning approvals have been received. This will encourage more homes to be built.

We recognize that municipalities may incur some additional costs as a result of these requirements, and for that reason, the legislation provides authority for municipalities to charge interest to cover costs associated with the deferral and the freeze. In addition, a maximum interest rate will not be prescribed.

Finally, our government has also made a housekeeping amendment that revises the index to which development charges may be linked in development charge by-laws.

If you have technical questions, please feel free to contact Caspar Hall, Director, Municipal Finance Policy Branch at [Caspar.Hall2@ontario.ca](mailto:Caspar.Hall2@ontario.ca).

Our government is committed to ensuring families across Ontario can access housing that meet their needs and their budget. I appreciate your input and participation in our consultations.

Sincerely,



Steve Clark  
Minister

C: Chief Administrative Officer

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**ONTARIO REGULATION 454/19**  
made under the  
**DEVELOPMENT CHARGES ACT, 1997**

Made: December 12, 2019  
Filed: December 19, 2019  
Published on e-Laws: December 20, 2019  
Printed in *The Ontario Gazette*: January 4, 2020

Amending O. Reg. 82/98  
(GENERAL)

**1. Sections 2 and 2.1 of Ontario Regulation 82/98 are revoked and the following substituted:**

EXCEPTION RELATING TO THE CREATION OF ADDITIONAL DWELLING UNITS

2. (1) For the purposes of clause 2 (3) (b) of the Act, the following Table sets out the name and description of the classes of existing residential buildings that are prescribed, the maximum number of additional dwelling units that are prescribed for buildings in those classes and the restrictions for each class.

TABLE

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, 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.
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.

(2) For the purposes of clause 2 (3) (b) of the Act,

(a) structures ancillary to the classes of residential buildings prescribed under subsection (1) are prescribed; and

(b) the maximum number of additional dwelling units and any restrictions prescribed under subsection (1) apply whether an additional dwelling unit is in the residential building or a structure ancillary to it.

(3) For the purposes of subsection 2 (3.1) of the Act, the following Table sets out the name and description of the classes of proposed new residential buildings that are prescribed and the restrictions for each class.

TABLE

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.	The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units.  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.
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.	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.  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.

(4) In subsection (3),

“parcel of land” means a lot or block within a registered plan of subdivision or draft plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 50 (3) (b) or clause 50 (5) (a) of the *Planning Act*.

**2. Section 7 of the Regulation is revoked and the following substituted:**

7. The Statistics Canada Non-residential Building Construction Price Index for Ottawa-Gatineau or for Toronto, as appropriate, is prescribed for the purposes of paragraph 10 of subsection 5 (1) of the Act.

**3. (1) The Regulation is amended by adding the following section:**

TYPES OF DEVELOPMENT

**11.1** (1) For the purposes of subsection 26.1 (2) of the Act, rental housing development 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) For the purposes of subsection 26.1 (2) of the Act, institutional development 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.

(3) For the purposes of subsection 26.1 (2) of the Act, non-profit housing development 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*.



(2) Clause 11.1 (3) (a) of the Regulation, as made by subsection (1), is amended by striking out “without share capital to which the *Corporations Act* applies” and substituting “to which the *Not-for-Profit Corporations Act, 2010* applies”.

4. The Regulation is amended by adding the following section:

TIME ELAPSED

11.2 For the purposes of clauses 26.2 (5) (a) and (b) of the Act, the prescribed amount of time is two years.

Commencement

5. (1) Subject to subsections (2) to (4), this Regulation comes into force on the day it is filed.

(2) Section 1 comes into force on the later of the day section 2 of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force and the day this Regulation is filed.

(3) Subsection 3 (1) and section 4 come into force on the later of the day subsection 8 (1) of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force and the day this Regulation is filed.

(4) Subsection 3 (2) comes into force on the latest of,

(a) the day subsection 8 (1) of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force;

(b) the day subsection 3 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force; and

(c) the day this Regulation is filed.

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