

By-Law 2015-241

Being a By-Law of the City of Greater Sudbury Regarding Deferral of Payment of Development Charges for Certain Residential Development

Whereas the *Development Charges Act, 1997*, S.O. 1997, c. 27 authorizes municipalities to pass a by-law for the imposition of Development Charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies;

And Whereas pursuant to the *Development Charges Act, 1997*, Council for the City of Greater Sudbury, passed By-law 2014-151, which imposes Development Charges and provides for the payment of Development Charges;

And Whereas pursuant to section 26 of the *Development Charges Act, 1997* Development Charges are payable on the issuance of a Building Permit, and pursuant to section 28 of the *Development Charges Act, 1997*, a municipality is not required to issue a Building Permit for a development to which Development Charges apply unless the Development Charges are paid;

And Whereas section 27 of the *Development Charges Act, 1997* provides that a municipality may enter into an agreement with a person who is required to pay a development charge, providing for payment of all or part of a development charge before or after it would otherwise be payable;

And Whereas Council for the City of Greater Sudbury has determined that it is appropriate to authorize eligible owners of property who have applied for a Building Permit for certain residential development to be permitted to enter into an agreement to defer payment of Residential Development Charges otherwise payable, on certain terms and conditions, and for the building permit to issue upon such agreement coming into effect;

And Whereas Council for the City of Greater Sudbury wishes to delegate authority to sign such agreements for deferral of Residential Development Charges;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Terminology

1.-(1) For the purposes of this By-law:

“Act” means the *Development Charges Act, 1997*, S.O. 1997, c. 27;

“Building or Structure” means a structure occupying an area greater than 10 square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, but does not include a Farm Building or an exterior storage tank;

“Building Permit” means a building permit issued under the authority of the *Building Code Act, 1992*, S.O. 1992, c. 23;

“CBO” means the person appointed to be the Chief Building Official for the City of Sudbury pursuant to the *Building Code Act, 1992*, S.O. 1992, c. 23 and includes his or her authorized designates;

“CFO/Treasurer” means the person who holds the position of the City’s Chief Financial Officer / Treasurer and includes his or her authorized designate and the person who holds any successor position;

“DC Bylaw” means By-law 2014-151, being a By-law of the City of Greater Sudbury with Respect to Development Charges, as amended from time to time;

“Development Charges” means a charge imposed against land in the City pursuant to the DC By-law;

“Dwelling Unit” means any part of a Residential Building or Structure with one or more habitable rooms designed or intended to be used as a domestic establishment in which one or more persons may sleep and in which sanitary facilities and a separate kitchen are provided for the exclusive use of such person or persons;

“Eligible Building Permit Application” means an application for a Building Permit for the development of a Single Detached Dwelling, a Semi-Detached Dwelling or a Residential Multiple Dwelling, provided same is not subject to a requirement for a site plan control agreement;

“Owner” means a person who is the registered owner of a property, as shown in the records of the Land Titles Office and includes a receiver or manager, or a mortgagee in possession, a beneficial owner of the land or other similar person;

"Residential Multiple Dwelling" means a Building other than a Single Detached Dwelling or a Semi-Detached Dwelling, which contains not more than four Dwelling Units and contains no non-residential use;

"Residential Development Charges" are Development Charges applicable under the DC By-law to residential development including redevelopment, as set out in Schedule B-1, B-2 or B-3 to the DC By-law, as the case may be;

"Semi-Detached Dwelling" means one of a freestanding pair of Dwelling Units attached together horizontally in whole or in part above grade and divided vertically from each other by a common wall extending at least one story above finished grade; and

"Single Detached Dwelling" means a separate Building or Structure containing only one Dwelling Unit.

(2) Any term used herein not defined in subsection 1(1) shall, if the term is defined in the Development Charges By-law, have the meaning ascribed to it in the Development Charges By-law and otherwise, shall be read with its ordinary meaning, considering the context in which it is used.

Authorize Deferral

2.-(1) The Owners of the property to which the Eligible Building Permit Application pertains may jointly apply to the City in writing for a deferral of payment of Residential Development Charges. The application shall be in a form established by the CFO/Treasurer, fully completed and signed by all of the Owners of the property.

(2) The CFO/Treasurer is authorized to approve fully complete applications submitted under subsection 2(1), provided the CFO/Treasurer is satisfied that:

- (a) the application for the deferral of payment of the Residential Development Charges pertains to an Eligible Building Permit Application;
- (b) as of the date of the Eligible Building Permit Application, the taxes for the property which is the subject of the Eligible Building Permit Application are paid in full, including all amounts, levies and charges which have been added to the tax roll for the property;

- (c) as of the date of the Eligible Building Permit Application none of the applicants for deferral of payment of the Residential Development Charges are indebted to the City for any fees, charges, judgment, fines, order, or any other money;
- (d) at the date of the Eligible Building Permit Application, none of applicants for deferral of payment of the Residential Development Charges are in default under an agreement for deferral of payment of Residential Development Charges for any property; and
- (e) at the date of the Eligible Building Permit Application no property owned in whole or in part by any of the applicants for deferral of payment of Residential Development Charges is subject to an order issued under the *Building Code Act*, 1992, S.O. 1992, c. 23.

Deferral Agreement – Effective Date

3.-(1) Council authorizes the CFO/Treasurer to enter into an agreement pursuant to section 27 of the Act and section 16 of the DC By-law, with the all of the Owners of property which is the subject of an Eligible Building Permit Application and whose application has been approved by the CFO/Treasurer pursuant to section 2. The Agreement shall authorize the deferral of payment of Residential Development Charges applicable to the Eligible Building Permit Application and set out the terms of payment of the Residential Development Charges.

(2) The amount of the Residential Development Charges payable under the agreement provided in for subsection 3(1) shall be calculated on the basis of the Residential Development Charges applicable as of the date of issuance of the Building Permit.

(3) An agreement under subsection 3(1) shall authorize deferral of payment of Residential Development Charges from the date on which the Building Permit resulting from the Eligible Building Permit Application is issued, until the date which is the earliest of:

- (a) six (6) months after the date of issuance of a Building Permit on an Eligible Building Permit Application;
- (b) the date upon which the CBO certifies that first Dwelling Unit in the Building or Structure for which the Building Permit issued pursuant to the Eligible Building Permit Application, has passed occupancy inspection, or in the case of a Single Family Dwelling, the date on which the Single Family Dwelling authorized by the

Building Permit resulting from the Eligible Building Permit Application has passed occupancy inspection; and

- (c) the date of transfer of the property which was the subject of the Eligible Building Permit Application.

(4) The CFO shall not sign an Agreement entered into under subsection 3(1) unless the CFO is satisfied that:

- (a) the Owners have provided a cheque in the amount of the Residential Development Charges owing to the City and dated for a date six months after the date of issuance of the Building Permit for the Eligible Building Permit Application; and
- (b) a Restriction on Transfer, prohibiting transfer without the consent of the City has been registered on title to the property which is the subject of the Eligible Building Permit Application.

Issuance of Building Permit

4. Despite section 26 of the Act, the Chief Building Official is authorized to issue the Building Permit resulting from a Residential Building Permit Application although the applicable Residential Development Charges have not been paid, upon being satisfied that the City has entered into an agreement pursuant to section 27 of the Act and subsection 16(4) of the DC Bylaw, with the owners of the property which is the subject of the Residential Application deferring payment of the Development Charges.

Default

5. Interest shall be payable on any amount not paid on the due date established in the agreement entered into pursuant to section 3, at the interest rate established in the City's Miscellaneous User Fee By-law from time to time as the rate of interest payable on overdue accounts, from the date of default until payment in full.

Delegation of Authority

6. In addition to any other authority granted to the CFO/Treasurer in this By-law, the CFO/Treasurer is delegated the authority to:

- (a) establish from time to time, the form of application for deferral of payment of Residential Development Charges;

- (b) establish from time to time the terms and conditions of the agreement authorizing the deferral of payment of the Residential Development Charges pursuant to section 3 and the form of such agreement;
- (c) administer and enforce any agreement entered into for the deferral of the payment of the Residential Development Charges;
- (d) perform all administrative functions incidental to and necessary for the due administration and implementation of this By-law, and the collection of the Development Charges deferred pursuant to an agreement, including without limitation may establish and amend from time to time, such forms, documents, and such standards, protocols and procedures as the CFO/Treasurer may determine are appropriate; and
- (e) authorize the registration of a Restriction on Transfer required under section 3 and authorize the discharge or release of such Restriction on Transfer upon payment of the amount owing to the City or arrangements for payment satisfactory to the CFO/Treasurer.

Further Delegation

7. The CFO/Treasurer may delegate the performance of any one or more of his or her functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The CFO/Treasurer may continue to exercise any function delegated during the delegation.

Decisions Final

8. The decisions of the CFO/Treasurer pursuant to this By-law are final and not subject to appeal.


Add to Tax Roll

9. In the event that the Residential Development Charges are not paid in whole or in part on the date provided for in the agreement entered pursuant to section 3, the CFO/Treasurer is authorized, in addition to any other right or remedy available to the City, to add the outstanding amount to the tax roll or tax rolls for any one or more properties to which the CFO/Treasurer, in her or his discretion determines that the Residential Development Charges apply to.

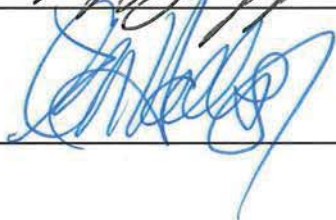
Effective

10. This By-law shall become effective on December 1st, 2015.

Read and Passed in Open Council this 24th day of November, 2015



Mayor



Clerk