

Request for Recommendation
City Council




Type of Decision											
Meeting Date		November 24, 2015			Report Date		November 23, 2015				
Decision Requested		x	Yes		No	Priority			High	x	Low
		Direction Only				Type of Meeting		x	Open		Closed

Report Title
Deferred Development Charges - Residential


Budget Impact/Policy Implication	Recommendation
<p>X This report has been reviewed by the Finance Division and the funding source has been identified.</p> <p>If approved, based on the residential building activity in 2014, the loss of interest revenue from this deferred program is estimated at \$29,000.</p> <p>If recommendation 2 is accepted, the user fee generated will ensure that all disbursement costs incurred by the City will be paid by the land owner.</p>	<p>Recommendation 1: THAT City of Greater Sudbury adopt the process for deferral of "residential" development charges as outlined in the report presented by the General Manager of Assets and Finance/Chief Financial Officer on November 24, 2015;</p> <p>AND THAT all approved deferred development charge agreements will be signed by the Chief Financial Officer/Treasurer and must meet criteria to minimize risk of loss to the City before issuance of the building permit;</p> <p>AND THAT a "DC Deferral Reserve" be established and incorporated in the Reserves, Reserve Funds and Trust Funds By-Law;</p> <p>AND THAT Council approve the respective by-law based on this recommendation and report.</p> <p>Recommendation 2: THAT the residential development charges deferral process include a requirement that a Restriction on Transfer registered on title and that the requirement for payment of the deferred development charges be modified to provide for payment on the earlier of: 1) 6 months; 2) the issuance of an occupancy permit; or 3) the sale or transfer of the property.</p>
Background Attached	Recommendation Continued

Recommended by the Department


Ed Stankiewicz
Acting Chief Financial Officer/Treasurer

Recommended by the C.A.O.


Kevin Fowke
Acting Chief Administrative Officer

Report Prepared By	Division Review
 Apryl Lukezic Co-Ordinator of Budgets	

Purpose

This report provides Council with additional information relating to residential Development Charges deferrals. The following resolution from the Finance & Administration Committee meeting on August 11, 2015 was approved by Council:

FA2015-37 -- "THAT the payment of development charges on all residential building permits applications be deferred to a date which is the earlier of six months after the issuance of the building permit or the issuance of the occupancy permit provided the application has entered into a deferred payment agreement with the City of Greater Sudbury;

AND THAT the General Manager of Assets and Finance / Chief Financial Officer be authorized to execute development charge deferral agreements with applicants for residential building permits.

AND THAT staff prepares the related by-law for the deferred payment agreement by December 1, 2015."

Council approved the deferral of development charges ("DCs") on all residential buildings as an incentive to encourage economic development by providing cash flow assistance to developers, homebuilders and land owners during construction.

Background

Staff's original report on August 11, 2015 was prepared in response to a request from the Sudbury Home Builders Association ("SDHBA"). Information within that report was specific to the SDHBA's proposal, and drew on the experience of two other municipalities which have implemented this type of arrangement. Under the original proposal, the City would have entered into an agreement with the SDHBA, which would have entitled members of the SDHBA to apply to defer the payment of development charges related to residential construction. Payment would be deferred from date of issuance of the building permit, which is the usual date for payment, to a date, which was up to 6 months after the date of issuance of the building permit. It was proposed that the Agreement with the SDHBA would be conditional upon compliance by all members. The City would have had the right to terminate the agreement upon the first instance of default by any member of the SDHBA.

Council indicated that any such program authorizing deferral of residential development charges should not be limited to members of the SDHBA and directed staff to prepare a report that would apply to all land owners of residential properties. The direction also indicated that the Development Charges could be deferred to the earlier of six months after the date of issuance of

the building permit, or the date on which an occupancy permit was issued.

This report is prepared to describe the proposed program for deferral of residential development charges, keeping in mind Council's expressed preference to keep the process simple and to not impose obligations which may delay the processing of the building permit application.

A further report will be forthcoming to address the possible extension of deferral privileges to development charges payable on non-residential and mixed use buildings.

Proposed Deferral of "Residential" Development Charges Program

1. Definition of "Residential" for Deferral of Development Charges

It is proposed that the residential development charge deferral program be restricted to situations where a building permit is issued for single detached dwellings, a semi-detached dwelling, and multi-residential building which has not more than 4 units. This largely parallels the division in the City's Site Plan Control Areas By-law (By-law 2010-220) between developments which require a site plan agreement and those that do not. Any residential development that triggers site plan control would be ineligible for deferral under this program.

2. Deferred Development Charges Agreement

The land owner must request a deferral at the time of the building permit application by completing an application form. This will allow staff sufficient time to review the request against the eligibility criteria for approve the application for deferral. The request must be initiated at this time in order to avoid delaying the issuance of the building permit within existing timelines.

If the application is approved, then the agreement will be executed by the Chief Financial Officer/Treasurer once the following has been received:

- a) agreement signed by the land owner (or all land owners if more than one);
- b) post dated cheque from the same land owner(s) for the amount of development charges owing; and
- c) documentation that Registration on Transfer has been registered on title with the City's consent. (pending Council approval of Recommendation 2)

The building permit will be issued once the Chief Financial Officer/Treasurer executes the agreement. The agreement must be executed with the land owner as development charges are a charge imposed against land in the City under the DC By-Law 2014-151 (as included in definitions, Section 2 and Section 3). The building permit (including property taxes and DCs) are the responsibility of the land owner as opposed to the builder and/or developer if different from the land owner.

3. Eligibility Criteria

The land owner must be in good standing with the City based on the following criteria:

- The land owner has paid all amounts owed to the City when due and owing (ie. Taxes Receivable and Accounts Receivable with City must be current – ie. less than 30 days);

- There are no outstanding orders under the Building Code Act, 1992; and,
- Land owner is currently not in default on any residential deferred development charges agreement (ie. DC's not paid in required timeline as per agreement)

As explained earlier in the report, properties subject to Site Plan Control are not eligible for deferral.

4. Issuance of Building Permit

For land owners who are not seeking or do not qualify for a DC deferral, DCs will continue to be paid in full before the issuance of the building permit.

For land owners who have applied and received approval to defer payment of DCs, the building permit will be issued when the CFO/Treasurer executes the deferral agreement. As explained under section "Deferred Development Charges Agreement" (#2) above, the CFO will execute the agreement once the post-dated cheque has been received, and if approved by Council, the Restriction on Transfer has been registered on title with the City's consent as explained under section "Restriction on Transfer – Recommendation 2" (#7) below. The agreement would come into effect when executed by the CFO/Treasurer and then the building permit can be issued.

5. Deferral Timeline

In accordance with Council's decision, the deferred development charges must be repaid the earlier of 6 months from building permit issuance or issuance of the occupancy permit (or first occupancy permit if more than one). There would be a third trigger if Council approves recommendation two for the Restriction on Transfer registered on title as explained under section "Restriction on Transfer – Recommendation 2" (#7) below.

6. Collection

Staff are proposing that as a condition of the DC deferral agreement, that the land owner(s) provide a postdated cheque with the executed agreement. In the event that the payment is not received prior to the date of the cheque, the cheque will be deposited. If payment is made before the date of the cheque, due to a sale, transfer or occupancy, then the postdated cheque will be returned or destroyed.

As a reminder of the obligation to pay the DCs, monthly account statements will be forwarded to the land owners advising them of the amount owing and due date being 6 months after issuance of the building permit. The due date on the monthly account statement can only include one due date, therefore the executed agreement will override the due date on the monthly account statements as being the earlier of two triggers (or three triggers if Council approves restriction on transfer) as explained in this report.

In the event that payment is not made on the due date, interest will be charged at the City's rate for overdue accounts in accordance with the Miscellaneous User Fee By-law. Collection efforts will be undertaken in accordance with the Accounts Receivable and Collection Policy and be added to the tax roll when unpaid after three dunning letters, even if there has been a change in ownership. If the landowner does not pay by the due date as outlined in the agreement, there will be additional interest and fees in accordance with the Policy and Miscellaneous User Fee By-Law.

If recommendation 2 is not accepted by Council as explained later in this report, then the deferral agreement will include a clause obligating the land owner to notify the new land owner that there are development charges outstanding on the property.

It is proposed that information be provided to educate the stakeholders about the need on a purchase or mortgage to check that development charges have been paid.

7. Restriction on Transfer – Recommendation 2

The second recommendation being proposed is that transfer of the property be added as a third trigger, such that payment would fall due on the date which is the earliest of: a) six months from date of issuance of building permit; b) the issuance of the occupancy permit; or c) the sale or transfer of the property.

In this recommendation, it is further proposed that the land owners who have been approved for deferred payment of DCs register a Restriction on Transfer on title to the property before execution of the agreement and before the issuance of the building permit. The restriction would prevent transfer without the consent of the City, ensuring that DCs are paid before the transfer can occur. Should the land owner pay the deferred DCs prior to the sale, then the restriction would be removed upon payment.

Costs including user fees and disbursements recoverable under the Miscellaneous User Fee By-Law would total approximately \$425 to register and \$425 to de-register when the deferred DC amounts are paid in full.

8. Ongoing Review of Residential Deferral Program

Staff will review and report back to Council after one year, or sooner in circumstances where land owners fail to pay the deferred residential development charges when due in accordance with the agreement.

Conclusion

In addition to the recommendation, a By-Law appears on the Agenda with respect to residential development charges deferral as outlined in this report.