

By-Law 2019-88

**Being a By-Law of the City of Greater Sudbury
Regarding Deferral of Payment of Development Charges
for Long Term Care Homes and Hospices**

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 a long term care home or a hospice, to be permitted to enter into an agreement to defer payment of 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 development charges as provided herein;

Now therefore 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 Permit” means a building permit issued under the authority of the *Building Code Act, 1992*, S.O. 1992, c. 23, pursuant to an Eligible Building Permit Application;

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

“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 or as replaced or re-stated and any amendments thereto;

“Development” has the meaning in the DC By-law;

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

“Eligible Building Permit Application” means an application for a Building Permit for the Development of a Long Term Care Facility or a Hospice;

“Hospice” means a facility providing end of life care for persons who are terminally ill and may include provision of palliative care;

“Long Term Care Home” means a long term care home regulated under the *Long Term Care Homes Act, 2007*, S.O. 2007, c.8, as amended or replaced;

“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; and

“Treasurer” means the person who holds the position of the City Treasurer and includes his or her authorized designate and the person who holds any successor position.

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

(3) Any reference in this By-law to a section or subsection in the DC By-law is deemed to be a reference to the equivalent section in any successor By-law to the DC By-law.

Authorize Deferral

2.-(1) The Owner of the property to which the Eligible Building Permit Application pertains may apply to the City in writing for a deferral of payment of Development Charges for a Long Term Care Home or Hospice. The application shall be in a form established by the Treasurer, fully completed and signed by every person who is an Owner of the property.

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

- (a) the application for the deferral of payment of the 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 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 the applicants for deferral of payment of the Development Charges are in default under an agreement for deferral of payment of Development Charges for any property;
- (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 Development Charges is subject to an order issued under the *Building Code Act, 1992*, S.O. 1992, c. 23; and
- (f) in the case of an application by an applicant for a deferral based on use of the property as a Long Term Care Home, evidence that the applicant is licenced to operate as a long term care home under the *Long Term Care Homes Act, 2007*, S.O. 2007, c.8, as amended or replaced.

Deferral Agreement – Effective Date

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

(2) The amount of the Development Charges payable under the agreement provided in for subsection 3(1) shall be calculated on the basis of the 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 Development Charges from the date on which the Building Permit is issued, until the date which is the earliest of:

- (a) two (2) years after the date of issuance of the Building Permit;
- (b) six (6) months after the date upon which the CBO certifies that all or part of the Long Term Care Home or the Hospice for which the Building Permit issued, has passed occupancy inspection; and
- (c) the date of transfer of title the property which was the subject of the Eligible Building Permit Application, whether by transfer, foreclosure, power of sale, tax sale vesting, vesting in a trustee in bankruptcy, or by any other means.

(4) The Treasurer shall not sign an Agreement entered into under subsection 3(1) unless the Treasurer is satisfied that a Restriction on Transfer, prohibiting transfer without the consent of the City has been or will be registered on title to the property which is the subject of the Eligible Building Permit Application, at the expense of the person receiving the benefit of the deferral of Development Charges.

Issuance of Building Permit

4. Despite section 26 of the Act, the Chief Building Official is authorized to issue the Building Permit although the applicable 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 Owner of the property which is the subject of the Eligible Building Permit 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 rate of 5% per annum, from the date of default until payment in full.

Delegation of Authority

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

- (a) establish from time to time, the form of application for deferral of payment of Development Charges for Long Term Care Facilities and Hospices;
- (b) establish from time to time the terms and conditions of the agreement authorizing the deferral of payment of the 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 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 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 Treasurer.

Further Delegation

7. The Treasurer may delegate the performance of any one or more of the 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 Treasurer may continue to exercise any function delegated during the delegation.

Decisions Final

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

Add to Tax Roll

9. In the event that the Development Charges are not paid in whole or in part on the date provided for in the agreement entered pursuant to section 3, the 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 Treasurer, in their discretion determines that the Development Charges apply to.

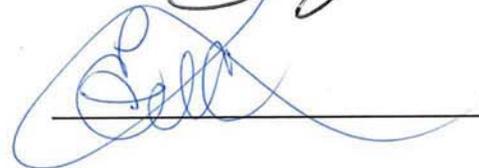
Effective

10. This By-law shall become effective on passage.

Read and Passed in Open Council this 28th day of May, 2019.



Mayor



Clerk